

Suspension of Assistance

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Introduction

1. This guidance applies to:
 - Child Disability Payment (CDP)
 - Adult Disability Payment (ADP).
2. This guidance explains when case managers can use powers to temporarily suspend social security payments, see 'When payment of assistance may be suspended'.
3. Suspension means temporarily not making payments to the individual that they are entitled to receive. The purposes of a suspension include:
 - encouraging an individual to engage with Social Security Scotland
 - reducing the risk that an individual will be overpaid assistance
 - reducing the risk that an individual will experience financial abuse.
4. When a case manager is considering whether to suspend payments, they must have regard to the individual's financial circumstances, see 'Considering the individual's financial circumstances'.
5. This guidance explains what information must be provided to the individual when their payments are suspended, see 'Suspending payments'.
6. Individuals have a right to request a review of a decision to suspend assistance. This guidance explains how case managers should conduct a review of a decision to suspend assistance, see 'Reviewing a decision to suspend payments'.
7. This guidance explains what happens when a suspension is ended, see 'Ending a suspension'.
8. Given the potential significance of the impact of suspending payments for the individual, case managers should make use of the case discussion process where there are any doubts about how to proceed.

Responsibilities when suspending payments

9. When suspending payments of assistance, a case manager must:
 - consider each case carefully on its merits, considering any factors that might make the decision unacceptable
 - give the individual the opportunity to give any reasons they may have for not suspending payment of assistance
 - be able to show that they acted reasonably in exercising their discretion see Principles of Decision-Making for guidance on this

- record the decision and advise the individual of the decision in writing (including the individual's right to request a review of the decision to suspend their payments).

10. If correspondence sent to the individual or someone acting on their behalf is returned to Social Security Scotland, the case manager must take steps to ensure that they have tried to trace the individual, such as:

- checking SPM or Searchlight to see if there is a new address
- telephoning the individual or their representative.

11. An individual may request a review of a decision to suspend, or they may also consider seeking a judicial review of the decision. This might be based on one or more of the following grounds:

- the decision to suspend was unlawful
- the case manager failed to use their discretion in a manner consistent with the law
- the decision was unreasonable
- the decision was improperly made
- the decision was delayed.

12. It is therefore important that case managers follow the guidance in this chapter when suspending payments or reviewing a decision to suspend.

When payment of assistance may be suspended

13. Payment of assistance may only be suspended in the following circumstances.

- a) If an individual fails to supply information formally requested by the case manager within the time limit specified, where the case manager is either:
- determining the individual's on-going entitlement to assistance
 - considering whether a duty to make a determination without application applies¹.

See 'Suspension for failure to provide information' for more information.

- b) If another person receives payments on behalf of the individual but either of the following apply:
- the person is unable to continue receiving payments on behalf of the individual
 - the arrangement is putting the individual at risk of financial abuse².

See 'Suspension where a person is unable to continue acting on behalf of the individual' for more information.

- c) If the individual is entitled to CDP and becomes an adult (turns 16 years old) but there is not yet an arrangement in place for either:
- the individual to receive payments as an adult³ or
 - someone else to receive payments on their behalf if they are an adult with incapacity⁴.

See 'Suspension for failure to provide payment details']for more information.

1. CDP Regs, reg. 26A(3)(a) ADP Regs, reg. 38(3)(a) SCP Regs, reg. 19A(3)(a) and SS(S)A 2018, s. 54(1A).

2. CDP Regs, reg. 26A(3)(b), ADP Regs, reg. 38(3)(b) and SCP Regs, reg. 19A(3)(b).

3. CDP Regs, reg. 26A(3)

4. Within the meaning of the Adults with Incapacity (Scotland) Act 2000

Suspension for failure to provide information

Overview

14. Case managers can formally request information from the individual about any matter material to either:

- determining an individual's entitlement to assistance¹
- considering whether a duty to make a determination without application applies².

15. The case manager will specify a time limit for providing the information.

16. The individual will have a minimum of 28 days to provide this information, but the case manager may extend this. See 'Extending the deadline for providing information'.

17. See also 'Requesting information after the individual has died' for an exception to this period.

18. Payment of assistance may be suspended if the individual has failed to provide information formally requested within the time specified for the purposes of one of the following:

- determining their on-going entitlement³ during a scheduled review,
- considering whether a duty to make a determination without application applies⁴ during an unscheduled review.

19. This must be the first time that the individual has failed to supply the information⁵.

20. Where a decision is made to suspend, the case manager should inform the individual that their payments have been suspended as a result of their failure to provide information and again ask the individual to supply the information. The case manager must also specify a further deadline for providing the information⁶. This should be a further minimum period of 28 days and may be extended by the case manager.

21. If the individual fails to provide the information by the further deadline, the case manager may decide that the individual does not meet the eligibility criteria for assistance⁷. See 'Ending entitlement to assistance'.

1. SS(S)A 2018, s. 54(1)(a)(i)

2. SS(S)A 2018, s. 54(1)(a)(ii)

3. SS(S)A 2018, s. 54(1A)(a)(i)

4. SS(S)A 2018, s. 54(1A)(a)(ii)

5. SS(S)A 2018, s. 54(1A)(c)

6. SS(S)A 2018, s. 54(1B)

Purpose of suspension in this situation

22. The purpose of suspension is to both:
- encourage the individual to engage with Social Security Scotland and provide the information
 - avoid the risk of the individual accruing overpayments if it is considered likely they may no longer be entitled to payment or are likely entitled to a lower amount.
23. Since the information is needed to review the individual's entitlement, failure to provide the information may result in Social Security Scotland ending their entitlement.
24. Suspension in this situation is to be used only when other ways of contacting requesting information have proven unsuccessful and the individual is at risk of having their entitlement ended.

Extending the deadline for providing information

25. Case managers should consider any request from the individual if they require more time to provide the requested information in these circumstances.
26. The individual might have good cause for a delay in providing information if there are exceptional circumstances relating to:
- the individual's health condition
 - a hospital stay
 - not getting the support needed from an advocate/support worker
 - having to deal with an unexpected life event, like a death in the family.
27. This list is not exhaustive.

Example: individual requests more time due to unexpected illness

Erik is entitled to ADP and the case manager begins a scheduled review. The case manager requests Erik returns the review form by 28 October. Erik was temporarily hospitalised on 7 September and returned home on 21 October. Erik contacts Social Security Scotland to request more time to complete the form. The case manager considers that it is reasonable to extend the deadline given Erik's unforeseen hospitalisation.

28. There may also be indications of impeded communication that indicated a lack of understanding of the impact of suspension, such as:
- the individual is known to need translated notifications

- delays in producing notifications in alternative formats, such as easy read or audio
- the individual should be contacted through an informal third party, such as a support worker or a family member.

Example: individual whose first language is not English requests more time

Monika is entitled to ADP. The case manager begins a scheduled review. The case manager requests Monika returns the review form by 11 February. Monika does not speak any English and the form Monika receives arrives on 1 February as a translation of the form was required. The case manager receives a request to extend the deadline. Given that the delay was caused by Social Security Scotland, the case manager considers it is reasonable to extend the deadline for providing the information.

29. This list is not exhaustive. If the case manager is unsure whether it is appropriate to extend the time limit, they should request a case discussion.
30. The chapter Principles of Decision-Making gives guidance on using discretion and considering exceptional circumstances.

Where the individual fails to provide the information

31. Where the individual fails to provide the information by the specified deadline, the case manager may decide to suspend payments.
32. The individual must be told that payments have been suspended. This will take the form of a notification in a format that is accessible to the individual.
33. The notification will ask the individual to provide the requested information by a further specified date¹. The notification will also explain that the individual's entitlement to assistance may be ended if they fail to supply the information see 'Ending entitlement' below.

1. SS(S)A 2018 s. 54(1B) and SCP Regs, paragraph 25(3) of the sch

Ending entitlement after a further request for information

34. If the individual fails to provide the supporting information after having been given a further request to provide that information, the case manager may make a determination that the individual does not satisfy the eligibility criteria for assistance.
35. The case manager can make this determination without further consideration¹.

1. SS(S)A 2018, s. 54(2)

36. It is important to recognise that ending entitlement could have a significant impact upon the individual. Ending entitlement should therefore only be used as a last resort.

37. There may be circumstances that mean it would be unreasonable to end entitlement, for example:

- the information has been requested because the individual's level of entitlement might increase
- the information may alternatively be collected on the individual's behalf by the case manager using powers to obtain the information from a third party
- the case manager is satisfied that there is enough information to conclude that the individual continues to meet the eligibility criteria for assistance
- there are indications of potential for hardship (such as previous known financial difficulty, vulnerability to homelessness)
- the information held suggests that the individual is a vulnerable person and ending entitlement could place the individual at risk of harm.

38. This list is not exhaustive. If the case manager is unclear as to whether it may be inappropriate to end entitlement, they should seek a case discussion.

Example: vulnerable individual with a history of non-engagement

Nikola is entitled to the enhanced rate of both components of ADP. Nikola has a significant mental health condition and has been hospitalised as a result on several occasions. This has caused several overpayments of ADP that Nikola has been repaying by way of deductions from her ADP.

The case manager begins a scheduled review of Nikola's entitlement and requests that Nikola complete and return the scheduled review form by 19 March. Nikola does not return the form, so the case manager makes a further request for the form to be returned within 28 days. Despite this, Nikola still does not return the required form. The case manager attempts to call Nikola but Nikola immediately hangs up.

The case manager reviews Nikola's previous contacts with Social Security Scotland and notices that there is a pattern of non-engagement. The case manager also notes supporting information provided with the previous application that suggests Nikola's condition is unlikely to change. There is also other information about the impact of Nikola's condition on their daily life that suggests Nikola has a long-term daily living and mobility needs. Rather than suspend entitlement, the case manager instead completes the scheduled review using the previous supporting information and maintains Nikola's award.

39. The suspension must end if the case manager decides to end entitlement¹.

1 CDP Regs, reg. 26E(c), ADP Regs, reg. 42(c), SCP Regs, reg. 19E(c)

If the individual has a representative

40. To avoid penalising the individual, case managers should not end entitlement to assistance if both:

- a person is acting on behalf of the individual
- it is unclear whether the person remains able and willing to act.

41. Where someone with legal authority to act on behalf of the individual fails to respond to requests for information, case managers should make every effort to establish that there have been no changes to the contact details of the individual or their representative. This could involve checking with:

- DWP
- Office of the Public Guardian (Scotland)
- Local authorities.

42. As an individual with a representative is unlikely to be capable of supplying the information themselves, case managers should consider whether the person can continue to act. See 'Making payments to a person who is not able to continue to receive them'.

If the individual provides the information

43. If the individual provides the requested information, payments will remain suspended until the case manager either:

- decides that a duty to carry out a determination without application does not apply¹
- makes a determination without receiving an application².

1 CDP Regs, reg. 26E(a), ADP Regs, reg. 42(a), SCP Reg, reg. 19E(a)

2 CDP Regs, reg. 26E(b), ADP Regs, reg. 42(b), SCP Regs, reg. 19E(b)

44. Case managers must end the suspension as soon as either of these circumstances apply.

45. Case managers should also end a suspension as soon as the information is provided if either of the following apply:

- more information is required from the individual or a third party
- the case manager is only conducting a forward-looking review of the individual's entitlement.

Requesting information after an individual has died

46. There is no power to suspend payment of assistance upon the death of an individual.

47. Where a case manager receives a verified report that the individual has died, they should make a determination without application to bring their entitlement to an end¹.

1 CDP Regs, reg. 31, ADP Regs, reg. 48

48. In Scotland, deaths must be registered within eight days. If Social Security Scotland have not verified a death after eight days, Social Security Scotland will take steps to verify the death. See the operational guidance on bereavement.

49. Where a case manager is aware of the possible unverified death of the individual, the case manager should make a request for information¹ from the next of kin or executor to provide:

- documentation to verify the date of death and
- confirmation of the individual's Executor details.

1 2018 Act, s. 54(1) (as amended) and SCP Regs, paragraph 25(1) of the sched.

50. The request for information will specify a time limit of 14 days. If the information is not provided after 14 days, the case manager should consider suspending entitlement.

Suspension because person unable to continue acting or individual at risk of financial abuse

Overview

51. Some individuals have a representative who deals with Social Security Scotland on their behalf.

52. This might be:

- someone with legal parental rights and responsibilities¹ for a child
- someone appointed by Social Security Scotland to act on their behalf²
- another person that Social Security Scotland has arranged to pay on their behalf³
- someone who is the individual's Guardian⁴ or Deputy
- someone who has a Power of Attorney⁵
- someone who is an intervener.

1. Children (Scotland) Act 1995, ss. 1 and 2

2. SS(S)A 2018, ss. 85A and 85B

3. CDP Regs, reg. 22, ADP Regs, reg. 33

4. Adults with Incapacity (Scotland) Act 2000, s. 57

5. Adults with Incapacity (Scotland) Act 2000, s. 15

53. In such cases, this involves arranging for a person to receive payments on behalf of the individual.

54. Where a person has been appointed by Social Security Scotland, they can do anything the individual could do in relation to the individual's entitlement to assistance¹.

55. Appointees therefore have responsibility for all the following:

- the contents of any application, including making the legal declaration on the individual's behalf
- supplying any information required by Social Security Scotland
- receiving and responding to letters and communications from Social Security Scotland
- exercising dispute rights on behalf of the individual
- reporting changes to their own circumstances, and the individual's circumstances where they may be relevant to administration of the individual's benefits
- receiving payments and ensuring the money is spent for the benefit of the individual
- supporting the individual to participate in decision making to the extent that they are able, considering their past and present wishes

- they can also enter into or end an agreement in relation to the hire or hire-purchase of a vehicle through the Accessible Vehicles and Equipment Scheme where appropriate.

1. SS(S)A 2018, ss. 85A and 85B

56. Case managers can suspend payments when they have arranged for another person to receive assistance on behalf of the individual if either of the following apply:

- the arrangement is putting the individual at risk of financial abuse¹
- the person is unable to continue receiving payments on behalf of the individual².

1. CDP Regs, reg. 26A(3)(b)(i), ADP Regs, reg. 38(3)(b)(i) and SCP Regs, reg 19A(3)(b)(i)
 2. CDP Regs, reg. 26A(3)(b)(ii), ADP Regs, reg. 38(3)(b)(ii) and SCP Regs, reg 19A(3)(b)(ii)

57. If the case manager decides to suspend payments being made to someone with authority to act for the individual, they must notify both:

- the person acting for the individual
- the individual.

Purpose of suspension in these situations

58. The purpose of suspension in these situations is to:

- prevent unlawful payments being made to another person
- protect the individual's funds
- reducing the risk of overpayments.

Individual is at risk of financial abuse

59. Individuals who are unable to act for themselves are among the most vulnerable in society and several government agencies have responsibility for ensuring they are protected from abuse and exploitation, whether financial, psychological, physical or sexual.

60. Social Security Scotland has no statutory duty of protection. However, Social Security Scotland has an ongoing responsibility to ensure that payments are made for the benefit of the individual.

61. Financial abuse includes¹:

- having their money or other property stolen
- being defrauded

- being put under pressure in relation to money or other property
- having their money or other property misused by another person

1. SS(S)A 2018, Sch. 11, para 1, CDP Regs, reg. 26A, ADP Regs, reg. 38, SCP Regs, reg. 19G.

62. This list is not exhaustive.

63. The suspension must not last any longer than is necessary. This means that while payments are suspended, case managers must actively take steps to resolve the need for payments to be suspended.

64. If the person receiving payments is an appointee appointed by Social Security Scotland, the case manager needs to consider ending the appointment so that the person is no longer the individual's representative.

65. The Client Representative Guidelines set out further guidance on steps case managers should take when they are considering ending an appointment.

Requests from public authorities to suspend assistance

66. Several public authorities such as Police Scotland, local authorities and the Office of the Public Guardian Scotland are responsible for investigating suspected instances financial abuse and protecting the possessions of victims of financial abuse.

67. Social Security Scotland should suspend payments if asked to do so by such a public authority. Payments should be suspended while an alternative arrangement is made that allows the individual to benefit from the assistance that they are entitled to without being at risk of financial abuse.

68. Before suspending payments in response to a request by a public authority, the case manager must co-ordinate with the public authority to ensure that the date that first payment will be missed is known to them. This is because this could be a dangerous or volatile situation for the individual and precautions may be necessary to ensure they are not put at further risk when the person concerned learns of the suspension.

69. These public authorities will generally have considered the client's financial circumstances before making this request. Social Security Scotland checks with these public authorities that they have assessed that the risk and scale of the suspected financial abuse is proportionate to any hardship that the suspension may cause the individual.

70. Case managers should remind public authorities that if the person receiving payments is also the individual's legal representative, then they will be personally notified of the decision to suspend payments.

The Office of the Public Guardian (Scotland)

71. The Adults with Incapacity (Scotland) Act 2000 ('the 2000 Act')¹ gives the Public Guardian for Scotland certain powers to investigate concerns and take steps to safeguard financial matters of adults regarded as 'incapable', where it appears they are at current or future risk.

72. While they mainly investigate situations involving Power of Attorneys and Guardians they can also investigate in situations where a person may lack capacity but does not already have anyone acting for them.

73. They will take steps to safeguard the individual's finances where it appears they are at risk. This could include Social Security Scotland appointees.

Local Authorities

74. Local authorities have a duty¹ to make the necessary inquiries and investigations to establish whether an adult is at risk from harm or if further action is required to protect the adult's well-being, property or financial affairs.

1. *Adults with Incapacity (Scotland) Act 2000 and the Adult Support and Protection (Scotland) Act 2007*

When a person is not able to continue to receiving payments

75. There are a range of situations where payments may be being made to a person on behalf of the individual and the person becomes unable to receive them. The overriding concern in these cases is that if payments continued to be made to the account or person concerned, the individual would not actually benefit from the payments made.

76. In these circumstances, it may be appropriate to suspend if:

- the case manager has made checks to identify an alternative arrangement for payment
- there are no suitable alternative arrangements that are possible before the individual's next payment is due to be made¹.

1. *CDP Regs, reg. 26A(3)(b)(ii) and ADP Regs, reg. 38(3)(b)(ii), SCP Regs, 19A(3)(b)(ii).*

77. For example:

- the person receiving the payments dies or becomes too unwell to manage the individual's payments,
- a corporate acting body such as a Care Home closes suddenly,
- a Power of Attorney, Guardian or Appointee is revoked or resigns suddenly, and no substitute client representative is in place

Adults with Incapacity (Scotland) Act 2000 sections 6 and 7.

- the individual withdraws consent for payments to be made to another person's account and there is no alternative arrangement in place for the individual to receive payments.

78. This list is not exhaustive.

Example: an appointee is no longer willing to act

Jayden is entitled to ADP. Jayden's brother has been appointed to act on their behalf, as Jayden lacks capacity to manage their own entitlement. Following an argument, Jayden's brother decides that he is no longer willing to act on Jayden's behalf. The case manager notices that Jayden has just been paid ADP and their next payment will not be due for another four weeks. Rather than suspend payments, the case manager makes urgent enquiries to see if there is someone else who is willing to act on Jayden's behalf. Jayden's sister has indicated that she is willing, so the case manager organises an urgent referral to Local Delivery to consider appointing Jayden's sister.

Example: an appointee becomes unable to act and payment due imminently

Cade is 17 and entitled to CDP. Cade's mum has been appointed to act on their behalf, as they are unable to manager their own entitlement. Cade's mum is involved in a serious accident and is hospitalised. It appears that Cade's mum will likely need to be discharged to a specialist care home. Cade's family contacts Social Security Scotland to explain this. The case manager decides to suspend payments, as the next payment of CDP is due to be paid the following day. They organise an urgent request to Local Delivery to identify a more suitable appointee so that the suspension may be lifted.

79. Social Security Scotland must end the suspension as soon as there is a suitable arrangement in place such that the suspension is not necessary¹. This means that, while payments are suspended, Social Security Scotland must proactively take steps to make an alternative arrangement for the individual to benefit from the assistance that they are entitled to.

1. CDP Regs, reg. 26E(d), ADP Regs, reg. 42(d), SCP Regs, reg. 19E(d)

Suspension for failure to provide payment details

Overview

80. Social Security Scotland will usually pay CDP to someone on behalf the individual who either:

- has parental rights and responsibilities for the child
- has been appointed by Social Security Scotland.

81. When the individual reaches 15 years and 7 months old, enquiries are made to establish if either:

- the individual will be able to manage their entitlement upon reaching age 16
- the individual will require an appointee to manage their entitlement to assistance as the individual is legally deemed to lack capacity.

82. Social Security Scotland will write to the individual's representative to ask whether the individual will be able to manage their benefits themselves from age 16.

83. The case manager may suspend payment where all of the following apply:

- the individual reaches age 16
- there is no arrangement to either pay the individual or another person to be used for the benefit of the individual¹.

1. CDP Regs, reg. 26A(3)(c)

84. It may be reasonable to suspend assistance where the individual is imminently due another payment of CDP and it is not possible to identify who CDP should be paid to.

Example: next payment of CDP is due imminently

Jorah is entitled to the highest rate of the care component of CDP and turned 16 on 4 July. Jorah's CDP was paid to their mum previously, but despite sending several requests to identify whether Jorah would be capable of managing their own payments, no response has been received. The next payment of CDP is due in two days on 8 July. The case manager attempts to call Jorah's mum and it becomes clear that it won't be possible to identify who should be paid before the next payment. The case manager therefore decides to suspend payment.

85. Where the individual is not due their next payment of CDP for some weeks, it may be unreasonable to suspend payments. The case manager should urgently attempt to address the situation and identify who CDP should be paid to. If this is not possible by the time the individual is due their next payment, then it may become reasonable to suspend payment.

Example: next payment of CDP is not due for several weeks

Dani is entitled to the middle rate of the care component and the lower rate of the mobility component of CDP. Dani turned 16 on 7 September. The next payment of CDP is due on 27 September. The case manager has not received a response from Dani's aunt, who was appointed on Dani's behalf when Dani was still a child. The case manager notes that Dani still has contact with other members of their family and that the next payment is not due for several weeks. The case manager decides not to suspend and makes urgent enquiries about who should be receiving payments instead.

86. Case managers must end the suspension as soon the suspension is no longer necessary because either:

- the individual can receive payments directly (now that they are an adult)
- it is established that a person has authority to receive payments on the individual's behalf (now that the individual is an adult).

87. Case managers must proactively take steps to make a suitable arrangement for the individual so that the suspension lasts no longer than is necessary.

Purpose of suspension in this situation

88. Once an individual reaches age 16, they will be legally regarded as an adult. They will therefore potentially be capable of managing their own financial affairs, including their entitlement to CDP.

89. Some individuals will be legally regarded as incapable of managing their financial affairs. In these circumstances, a person may be appointed to act on their behalf (see Client Representative Guidelines).

90. The suspension must not last any longer than is necessary. This means that while payments are suspended, case managers must actively take steps to resolve the need for payments to be suspended.

Suspending payments

91. Case managers must consider the individual's financial circumstances before deciding to suspend¹. See 'Considering the individual's financial circumstances'.

92. When a suspension is applied, the individual must be informed about:

- the decision to suspend payments
- the reason for the decision
- the individual's right to have the decision reviewed
- anything that the individual can do that would make the case manager consider ending the suspension².

93. This must be done in a way which provides them with a record of the information that they can show to or share with others³.

1 CDP Regs, reg. 26B, ADP Regs, reg. 39, SCP Regs, reg. 19B

2 SS(S)A 2018, Sch. 11, para. 4, CDP Regs, reg. 26C, ADP Regs, reg. 40, SCP Regs, reg. 19C

3 ibid.

Considering the individual's financial circumstances

94. The suspension of payments to an individual can have serious consequences.
95. Suspending payments may have an impact on other types of social security assistance that the individual is entitled to receive.
96. When an individual is at risk of having their payments suspended, they will be encouraged to notify the case manager if this would cause them financial hardship.
97. The individual's financial circumstances should be considered both:
- before deciding to suspend payments
 - when reviewing a decision to suspend payments.
98. Where a suspension is applied because of a failure to supply information, the case manager may have limited information about the individual's financial circumstances.
99. Case managers should therefore consider potential indicators that might indicate the individual might experience hardship and that suspension is inappropriate. For example, the individual:
- may be in receipt of one or more low-income benefits delivered by Social Security Scotland or DWP
 - has an active arrangement with Social Security Scotland to repay an overpayment.
100. In these circumstances, the case manager should carefully consider using their discretion not to suspend payments.

Example: lack of information about the individual's financial circumstances

Mika is entitled to the enhanced rate of the mobility component of ADP. The case manager begins a scheduled review of Mika's entitlement and issues the scheduled review form. The letter explains that failure to return the form within 28 days could result in suspension of Mika's payments. Mika fails to return the form and the case manager has limited information about their financial circumstances.

The case manager notices that Mika is entitled to SCP and Best Start Grant but is currently repaying an overpayment of another Social Security Scotland benefit. The case manager checks with DWP and notes that Mika is also entitled to Universal Credit. The case manager decides that suspending Mika's ADP could cause considerable financial hardship and decides not to suspend payment.

101. Where the case manager has any doubts about the appropriateness of a suspension because of the individual's financial circumstances, they should seek a case discussion.

Factors to consider

102. There is no requirement upon the individual to provide proof of hardship, such as bank statements, receipts or invoices.

103. Case managers should be prepared to accept in good faith any statement made by the individual that suspension would or is causing hardship.

104. Case managers should normally end the suspension as soon as possible if it is causing hardship.

105. The individual may be in financial hardship if they:

- cannot pay for bills, food or other essential items
- are at risk of losing their home or threatened with eviction
- would face loss of gas, electricity or other utilities
- will lose access to other social security payments because of the suspension
- cannot access services such as homecare, day services or transport
- are at risk of losing a vehicle leased under the Accessible Vehicles and Equipment Scheme.

106. This list is not exhaustive. Case managers should exercise their discretion fairly. The chapter Principles of Decision-Making gives guidance on using discretion.

Example: Financial hardship

Asif's entitlement to ADP has been suspended for failure to provide information. Asif's explains to the case manager that they have not been able to pay their carer because of the suspension, resulting in the service being temporarily withdrawn. Because of this, Asif's is unable to manage activities of daily living independently. Asif's is very distressed by the situation and explains that they are still waiting on information from their GP about their condition. The case manager considers it reasonable to conclude that Asif's is experiencing financial hardship as a result. The case manager decides to end the suspension.

Reviewing a decision to suspend payments

107. The individual has the right to ask for a review of the decision to suspend payment of assistance.

108. Case managers have 31 days to complete a review of the decision¹.

109. The individual must be notified of the outcome of the review. This must be done in a way which provides them with a record of the information that they can share with others².

110. The notice of the review must also give reasons for the case manager's decision.

1 CDP Regs, reg. 26D, ADP Regs, reg. 41, SCP Regs, reg. 19D

2 CDP Regs, reg. 26D(3), ADP Regs, reg. 41(3), SCP Regs, reg. 19D(3)

Factors to consider

Generally

111. Reviewing a decision to suspend checks that Social Security Scotland has acted lawfully in suspending payments and whether it may lawfully continue to maintain a suspension.

Was there a lawful basis for suspension?

112. When conducting a review, the case manager should consider both whether:

- the conditions for suspending the individual's assistance were met
- those conditions continue to apply in the individual's case.

113. If there was no lawful basis for the suspension, then it should be ended immediately.

Example: suspension applied for failure to supply information

Stella is entitled to the enhanced rate of the daily living component of ADP. The case manager begins a scheduled review and asks Stella for more information about her condition. Stella has been asked to supply the information by 11 February.

The case manager reviews Stella's case on 9 February and notes that the information has not been provided and therefore decides to suspend payment in anticipation it will not be provided.

Stella requests a review of the decision to suspend, as she returned the form for the scheduled review by recorded delivery. She can see that it was

received on 10 February by Social Security Scotland using the tracking information. As the deadline for supplying the information had not yet been passed, there is no lawful basis for suspending Stella's payments.

114. If there is a lawful basis for the suspension, the case manager should go on to consider whether the grounds for suspension continue to apply. Where those grounds no longer apply, the case manager should end the suspension.

Example: suspension because of change in appointee

Eilidh is entitled to the middle rate of the care component and lower rate mobility component of CDP. Eilidh's mum made the application for CDP and has been receiving payments on her behalf. On 9 June, Eilidh's mum died unexpectedly. The case manager attempts to quickly identify whether there is someone else who could act on Eilidh's behalf. It is established that Eilidh's gran should be appointed to act on her behalf, but the case manager fails to end the suspension.

Eilidh's gran requests a review on her behalf, on the basis that she has now been appointed and there is no need to maintain the suspension. The case manager considers this request and immediately ends the suspension.

Was the individual notified of the suspension?

115. It is a legal requirement that the individual is notified of the suspension.

116. An individual may state that they did not receive notice of the suspension when requesting a review. The case manager should both:

- confirm that the correct address is held for the individual
- check that the notice was issued to that address.

117. If the notice was sent to the wrong address, then it may be appropriate to re-issue the notice to suspend to the correct address if the conditions for suspension continue to be met.

118. If the notice was sent to the correct address, the case manager should consider whether it is likely or not that the individual received the notice. Each case should be considered on its own merits, but potentially relevant considerations include:

- has the individual reported issues with losing mail to Royal Mail
- whether the individual has received and responded to other correspondence from Social Security Scotland
- checking with the mail room to ensure that the mail has not been returned to Social Security Scotland.

119. Case managers should be prepared to accept what the individual says about receiving the notice. However, it may be that it is appropriate to re-issue the notice and maintain the suspension.

120. Certain situations would indicate that it would be appropriate to maintain the suspension, such as:

- the individual remains at risk of financial abuse
- the person acting on the individual's behalf is no longer able to do so.

Were the individual's financial circumstances properly considered?

121. Before suspending assistance, a case manager is required to consider whether the individual's financial circumstances were properly considered. Case managers should also consider the individual's financial circumstances during a request for a review, even if the individual does not specifically put hardship in issue.

122. Social Security Scotland may hold limited information about the individual's financial circumstances, particularly where assistance is suspended for failure to provide information.

123. Where limited information is available at the review stage, the case manager should engage with the individual to understand their financial circumstances. The case manager could also consider information already held, such as whether the individual is in receipt of other devolved payments.

Example: suspension due to risk of financial abuse

Niall is entitled to the standard rate of the mobility component and the enhanced rate of the daily living component of ADP. Niall has an appointee. It has been alleged that Niall's appointee is subjecting him to financial abuse. Based on the strength of the information received, the case manager has suspended Niall's ADP. This is because it has not been possible to identify an appropriate alternative arrangement. The case manager receives a request from Niall to review the suspension.

The case manager is satisfied that there was a lawful basis for suspending Niall's payments. The information from Niall suggests that his brother would be happy to manage his entitlement to assistance, but this was overlooked in suspending payments. The case manager decides to make an urgent referral to Local Delivery to arrange an alternative appointee. Given the risk of financial abuse, it is appropriate to maintain the suspension whilst making those arrangements.

Considerations where suspension has been applied for failure to supply information

124. In cases where payments have been suspended for failure to provide information, the case manager should also consider whether:

- the individual had provided the information before the specified deadline
- the individual had asked for more time to obtain the information
- the individual may have had good cause for the delay,
- the individual received notice that their payments were at risk of being suspended
- the information exists or would be readily obtainable by the individual
- there is an alternative method of obtaining the necessary information.

125. This list is not intended to be exhaustive. If the case manager is unclear about how to proceed, they should seek a case discussion.

126. The following may suggest that a suspension is not appropriate:

- the individual has asked for more time to provide the information because they are waiting on someone else to provide it to them
- the information does not exist or could not be readily obtained by the individual
- there is an alternative method of obtaining the necessary information, such as Social Security Scotland collecting it on the individual's behalf
- the individual was not informed that their payments could be suspended for failure to provide the information
- the individual has good cause for failure to supply the information see 'Extending the time limit for providing information' for examples of good cause
- the individual has otherwise previously been communicative and co-operative in relation to this request.

127. This list is not intended to be exhaustive.

Example: individual had asked for more time to provide information

Janika is currently entitled to the standard rate of the daily living component of ADP. As part of a scheduled review of Janika's entitlement, the case manager formally requests that Janika provides supporting information from a professional by 1 May. Janika contacts Social Security Scotland on 29 April to explain that they are having difficulty reaching their support worker, as they are on leave. The support worker had promised to produce the supporting information but won't be back from leave for two weeks. This is noted on Janika's case. No information is received by 1 May and Janika's ADP is suspended.

Janika contacts Social Security Scotland on 10 May to request a review of the decision to suspend payment. The case manager is satisfied that both:

- (a) there was a lawful basis for suspending
- (b) Janika had been properly notified of the suspension.

However, Janika has been engaging with Social Security Scotland and was having difficulties in obtaining the information. The case manager decides that it would be unfair to apply the suspension, as there is still a possibility that the information will be forthcoming.

128. The following may suggest that a suspension might be appropriate:

- the individual has repeatedly failed to respond to attempts to obtain the information
- the individual's mail is being returned consistently to Social Security Scotland.

129. If the case manager is unsure how to proceed, they should seek a case discussion.

If payments are still suspended when the review takes place

130. If payments are still suspended when the case manager looks again at the decision, then they must decide either:

- whether they may keep the suspension in place
- end the suspension.

If the suspension has ended when the review takes place

131. If the suspension has ended by the time the case manager looks again at the decision, then the case manager needs to decide both:

- if it was lawful to suspend payments in the first place
- if they were right to keep the suspension in place for as long as they did.

Impact of suspension on individuals with an AVE lease

132. Individuals who lease a vehicle under the Accessible Vehicles and Equipment (AVE) Scheme, can have their payments suspended.

133. An individual must be receiving either of the following to join the AVE Scheme:

- higher rate of the mobility component of CDP
- enhanced rate of the mobility component of ADP

134. When payments are suspended, the accredited provider of the vehicle will not receive payments. This may lead to the provider seeking to recover possession of the vehicle.

Suspension for failure to provide information

135. If payments were suspended for failure to provide information, the provider will:

- notify the individual 17 days after the suspension of their intention to recover the vehicle
- recover the vehicle 34 days after the suspension was applied but only if the provider has proactively verified with Social Security Scotland on day 33 as to the status of the suspension.

136. Social Security Scotland may ask the provider not to recover the vehicle until after a certain date if all the following apply:

- the individual has provided the requested information to Social Security Scotland
- the case manager chooses to maintain the suspension because they are not ready to carry out a determination.

137. Whether or not in response to such a request the vehicle is recovered after day 34 is a matter solely at the discretion of the provider.

138. Providers may only recover the vehicle if they have proactively verified with Social Security Scotland on day 33 that the suspension is still in place.

Suspension on change of appointee or protection from financial abuse

139. If payments were suspended because an appointee was unable to continue acting or the individual is at risk of financial abuse, the provider will allow the individual to:

- retain the vehicle for a minimum period of 34 days before notifying them of its intention to recover the Vehicle
- retain the vehicle beyond the 34 period provided that Social Security Scotland has the provider on or before day 34 and confirmed that payments shall be backdated to the date of suspension and paid directly to the provider once the matter has been resolved.

Ending a suspension

140. When a suspension is ended, the individual will immediately receive the payments which were previously not paid to them because of the suspension. They must have met the conditions of entitlement throughout the period of the suspension.

141. This amount is worked out by looking at the latest determination of entitlement that covers the period when payments were suspended¹.

1 CDP Regs, reg. 26F, ADP Regs, reg. 43, SCP Regs, reg. 19F

Example: suspension ends after new appointee identified

Marian is entitled to the enhanced rate of the daily living component of ADP. Marian's appointee was no longer able to continue to act on their behalf. The case manager could not immediately identify an alternative payment arrangement, so decided to temporarily suspend payments on 24 May. The case manager subsequently identifies a suitable alternative appointee on 16 June. As Marian has met the conditions of entitlement for ADP throughout the period of suspension, Marian should receive the arrears of payments from 24 May to 16 June.