

Disability Benefits Policy Position Papers

**Paper 4: How does a decision get made on
my disability benefit application?**

Disability Benefits Position Papers – October 2020

This is Paper 4 of 5 position papers published in October 2020, which provide an overview of the new Scottish approach to disability benefits. These papers were correct as at the date of publication: please check the Scottish Government's [Social security: policy position papers](#) webpage for any further updates.

Paper 4: How does a decision get made on my disability benefit application?

Introduction

This paper sets out the Scottish Government's current plans for a new approach to gathering information and making decisions when a client applies for a disability benefit. It includes information about how we will introduce a system with dignity, fairness and respect at its heart and will not follow the current UK Government's face to face assessment process which we know causes anxiety and stress to people. This paper also includes a table which sets out the differences between the current Department for Work and Pensions (DWP) system, and the Scottish approach to social security decision making.

Decision Making

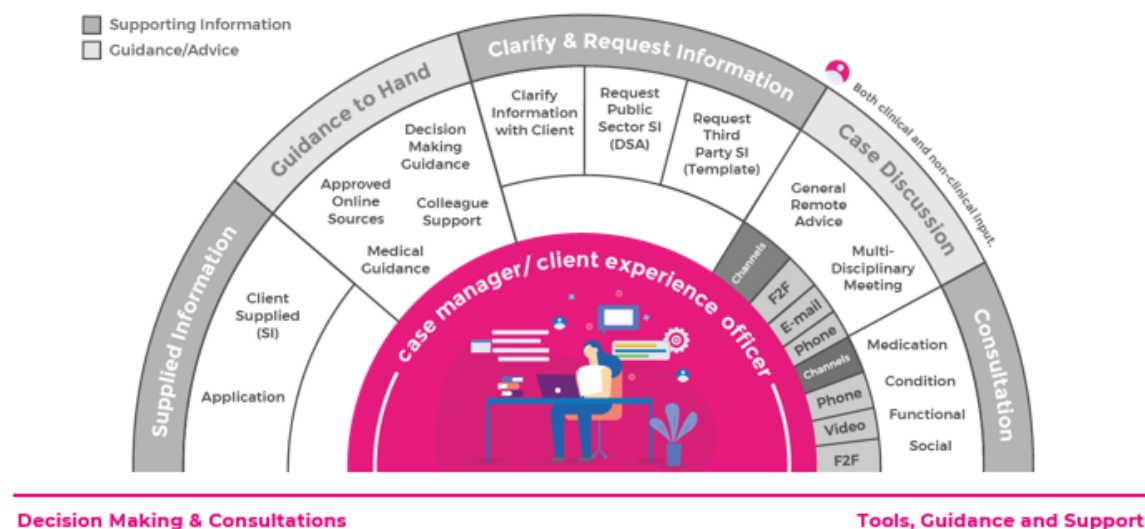
Decision making is the process of determining whether an individual applying for Disability Assistance meets the eligibility criteria and, if they do, what type and rate of assistance they are entitled to.

In order to ensure a safe and secure transition from DWP delivering disability benefits to the launch of Disability Assistance in Scotland, the eligibility criteria for each form of Disability Assistance will remain largely the same as the benefits they replace.

However, the decision making process will change to one that carefully considers the information provided by clients and those who know them. This will result in the criteria being applied to decisions being in line with the values of devolved social security. This will support the right decisions being made first time.

Stages of Decision Making

Tools available to access support, services and resources as a case manager or client experience officer



This diagram shows the stages of decision making that an application may go through. Depending on the application and supporting information provided, a decision may be reached earlier in the process or, in more complex cases, move through each of the stages:

- Review application and supplied information – the case manager (a member of Social Security Scotland’s staff whose job is to consider each client’s entitlement to Disability Assistance on an individual basis) will examine the client’s application and any supporting information provided. They will make a decision if they have enough information at this point (more detail about supporting information can be found in the section below);
- Consult guidance – if further information is needed, the case manager will consult available guidance and make a decision if they have enough information;
- Clarifying and requesting information – if further information is needed, the case manager will discuss the client’s case with them and work with the client to find supporting information from various sources and make a decision if they have enough information; and
- Case discussion, and if necessary (in Adult Disability Payment cases only), client consultation – if further information is needed, the case manager will seek information which may include advice from managers and practitioners (Social Security Scotland staff with professional experience in health and/or social care), including on whether a further in-person discussion with the client is required. A client consultation may be the next step for Adult Disability Payment cases. Information from client consultations will provide further information to the case manager, who will make a decision when they have enough information. Practitioners will not make decisions on cases.

If the client meets the eligibility criteria for Disability Assistance, the case manager will decide what component(s) and rate the client is entitled to, and decide when the client's award should be reviewed. They will communicate this to the client using an agreed accessible communication channel.

Case managers will be making the decisions for application; the diagram above also mentions client experience officers, who make decisions on re-determinations. Further details on this and re-determination and appeals are provided in our position paper "[How do I challenge a decision on my disability benefit application?](#)".

Supporting Information

To ensure that the process of applying for Disability Assistance is transparent, we will provide clients with clear and accessible guidance during the application process, which will be developed in conjunction with stakeholders. This guidance will also explain how supporting information is used in the decision-making process and examples of the types of information that are useful.

Supporting information falls into two broad categories: formal and informal. Formal sources of information can be provided by professionals with insight into a client's disability or health condition, such as a community nurse, physiotherapist, or support worker. This could include confirmation of a diagnosis, how a disability affects a client's day to day life, or a letter about the support a client gets.

The client can provide us with formal supporting information themselves or can ask us for support in requesting it from public health providers or local authorities. We are working closely with other parts of the public sector to make it easy for clients to nominate professionals to share information with us on their behalf. We are working with CoSLA and NHS health boards to develop standard channels which will allow us to collect the right information in a straightforward way when clients ask us to.

Informal sources are all other sources of supporting information provided by a client's wider support network. During the Scottish Government's Consultation on Disability Assistance (2019), many people told us that useful insight into a client's daily life can often be provided by their informal support network – including family, friends, or unpaid carers. Social Security Scotland will ensure that equal consideration will be given to all sources of information.

Case managers will start by assuming that the client has provided an accurate account of how their disability or condition impacts on them. Social Security Scotland will not seek to gather an exhaustive list of supporting information. In most cases, case managers will seek only one source of formal supporting information (such as confirmation of a diagnosis from a GP).

In the minority of cases where no formal sources of information are available, case managers will be able to use their discretion, informal sources of information and the advice and guidance available to them to reach a decision. This approach will ensure that clients who face challenges in accessing a diagnosis or formal supporting information do not face barriers in accessing the benefits they are entitled to.

Case Discussion

If, after gathering further supporting information with input from the client, a case manager is still unable to make a decision, they can then engage in a Case Discussion with a Social Security Scotland practitioner. Practitioners will be able to provide information and advice on a broad range of matters. Examples include:

- the side effects of a particular medication;
- how a disability generally affects people; or
- the way in which two different conditions may interact.

This may involve the practitioner answering a specific question that the case manager has, or the practitioner might take a more detailed interest in the client's case. This might mean reviewing the application and supporting information or suggesting what further supporting information may be available. This could also include advising that a consultation may be needed for clients applying for Adult Disability Payment.

We intend that case managers will take into account a number of factors in deciding when to refer a case to a practitioner, including:

- the complexity of the application, for example if it includes conflicting information or relates to the combined impact of two or more issues;
- whether the person has a particularly complex or rare condition; and
- if the person has a condition which fluctuates.

This list is not exhaustive. We want to encourage case managers to approach practitioners for advice when they consider it is required to make a fully informed decision about a client's application.

If information for a client applying for Adult Disability Payment cannot be obtained in any other way, then it will be a practitioner who will carry out a consultation with the client. As required by the Social Security (Scotland) Act 2018 such consultations will be carried out by people who are 'suitably qualified' to do so and employed by Social Security Scotland. Clients with mental health conditions and learning disabilities will discuss their requirements with practitioners who have an appropriate understanding of their condition or disability.

Client Consultations

In relation to Adult Disability Payment, if there is no other way to obtain the information required to make a decision, case managers (with input from practitioners) will also be responsible for determining whether a client needs to engage in a consultation with a practitioner. Our approach is that this option is used only as a last resort, rather than being an automatic part of the decision-making process.

There will be no functional assessments like those carried out under the DWP, as we will no longer conduct physical examinations of a client, for example testing grip strength, musculoskeletal examinations, peak-flow readings, testing vision etc.

Our review of the current PIP assessment concluded that such functional examinations did not meet our values of fairness, dignity and respect. It also concluded that examinations did not provide the kind of reliable information a case manager needs to make an informed decision.

The reasons for the removal of functional examinations are set out below:

- Adult Disability Payment supports clients with disabilities and long term health conditions that can vary over days, weeks or months. An examination can only offer a view at a single point in time. Getting a true picture of the impact of a condition or disability on a client will always involve several sources of information, and the additional value of an examination at a point in time will, for many people, be questionable.
- There are other ways of understanding the nature of a client's support needs, such as confirmation of diagnosis or the level of support the client requires. Specific examinations are not needed as well.
- Where the client has provided information in the course of a discussion, we believe it is undignified to then ask the client to prove a lack of function through a test. In the Scottish Government system, the consultation will allow the time needed for a client to give the additional information required. Practitioners will come from a position of trust in the client when discussing how the client's health conditions or disability affect their daily living.
- There are many conditions and restrictions which do not have associated functional examinations within the PIP assessment. These include epilepsy, any conditions affecting internal organs such as Crohn's Disease, heart failure, kidney failure, tinnitus, cluster headaches, and cystic fibrosis. Removing the functional examinations from our consultations will promote a consistent service where no client is disproportionately scrutinised simply because they have a condition which is easier to examine than others.
- The consultation will be an objective discussion between a client and a practitioner, based on trust in the client. A case manager may not require information about every descriptor and will indicate to the practitioner which descriptors they are unclear on. The discussion between the practitioner and the client will capture the information which has been requested by the case manager to enable them to make a decision and will not ask unnecessary questions by rote.

This new approach will provide a consistent service to residents throughout Scotland. We will also take a multi-channel approach to how consultations take place, such as by phone or video call, removing the need for clients to travel to unfamiliar assessment centres in the majority of cases.

While we expect it will be helpful for many clients, we understand that a telephone consultation will not be the best option for everyone and we know that clients have valid concerns over the way telephone assessments have been carried out by DWP in recent months.

A telephone consultation carried out by a practitioner from Social Security Scotland will be substantially different from DWP telephone assessments: for example, clients will not face the same pressures to explain or 'prove' their disability or condition, as exemplified by our commitment to abolish functional examinations.

Where a client is not able to express themselves over the phone or is uncomfortable doing so, we will work with the client to find alternative ways of carrying out a consultation. Clients will also be able to request a face to face consultation if they feel it is the best way of articulating the impact of their condition or disability. Social Security Scotland will continue to provide in-person consultations when required to meet a client's access needs, either by a practitioner attending the client's home, or at a local partnership location, such as a GP surgery. Social Security Scotland staff will discuss with clients invited for a consultation the most suitable way for it to be carried out, to ensure their particular needs are met.

All appointments for consultations will provide an opportunity for advocates or a supporter to be invited to join the client during their consultation. A telephone appointment will provide the option for the advocate or supporter either joining remotely or being physically present with the client. An in-person consultation will offer the opportunity for the client, advocate or supporter and practitioner to be in the same room.

This new approach to consultations will deliver all of our commitments relating to how people access Adult Disability Payment. We are determined that consultations will only take place when it is the only practical way of getting the information needed to make a decision – and that the consultation process will be an entirely different experience from DWP assessments. Consultations will be audio recorded as standard and the recording will be made available to the tribunal if a client appeals a decision. Practitioners' reports made during a consultation will always be provided to clients. Clients will be made aware of any informal observations made by practitioners during the consultation and will have the opportunity to respond to them at the time.

Award duration and light touch review

All awards of Disability Assistance will be rolling, with no set end date. Reviews of a client's award will be light touch and as non-intrusive as possible. The Scottish Government has previously published a [position paper](#) on awards and entitlement, setting out the key principles for how reviews of an award of disability assistance should operate, including how light-touch reviews will work in practice.

Engaging with people

As we have set out, the Scottish Government is committed to creating a social security system in which values of dignity, fairness and respect are embedded throughout. Our approach has been informed through the Consultation on Disability Assistance (2019), engagement with people with lived experience of the current social security system through our unique Social Security Experience Panels, and through the Disability and Carer Benefits Expert Advisory Group (DACBEAG) which

provides independent advice to Scottish Ministers on policy proposals for disability assistance.

One of the key areas that stakeholders have influenced is how we plan to gather information and make decisions about Disability Assistance. The approach which we have outlined in this position paper marks a significant departure from the present UK Government system, where clients have told us that they feel they need to ‘prove’ they have a condition or disability, and where the majority of working age clients are normally required to attend a face-to-face assessment.

Next Steps

We are building and refining our processes to support decision making, informed by ongoing work with users and stakeholders, and extensive testing of materials like our guidance. We are also looking at staff training to ensure our new approach supports clients as Social Security Scotland begins to make decisions on applications for the new disability benefits.

An overview of the differences between the UK and Scottish approaches to applying for disability benefits

Usual UK system	Scottish approach
<i>Supporting Information</i>	
Decision Makers don't routinely seek out supporting evidence, and the onus is firmly on clients to do this.	Case managers will help clients to identify what types of supporting information are most useful to us. Where the information isn't to hand, we will collect information from public sector partners.
The lack of supporting information can significantly affect the outcome of an application.	We will use practitioners who can bring their knowledge and experience of work in health and social care to provide additional advice to Case managers, by resolving common questions about the impact of disabilities and conditions, medication and symptoms.
<i>Making Decisions</i>	
The lack of supporting information can significantly affect the outcome of an application.	Case managers will seek one source of supporting information from a formal source, such as confirmation of a diagnosis or a letter from a support worker. This will be used to determine, on the balance of probabilities, that the individual's condition or disability is consistent

with the general care and mobility needs detailed on their application.

No one will be disadvantaged by a lack of formal supporting information. Case managers will have the discretion to make an award in the absence of supporting information.

Decision Makers don't routinely speak to clients about their decision

Our case managers will be empowered to speak to clients to gain further information or to clarify details. We will start from a position of trust in listening to what clients tell us.

Consultations

People applying for Personal Independence Payment (PIP) are routinely required to attend a face-to-face assessment. This assessment does not necessarily take place at a time and location that suits the individual.

Assessors regularly make informal observations about clients without informing them.

There will be no assessments as the functional examinations will end. For people applying for Adult Disability Payment, consultations will only take place where it is the only practicable way to gather accurate information about a client's needs.

We will give clients the choice of an appointment date and time that suits them and clients will have the option to reschedule consultations online or by phone.

When practitioners make informal observations, they will be discussed freely with clients.

Consultations will typically take place through a range of channels, including phone and video calls, unless an individual requests another method such as a face-to-face consultation. This will take place at a partner location or in the client's home.

Observations made by a practitioner during a consultation must be evidence based and transparent. A client will have the opportunity to respond to any observations made.

Consultations will be audio recorded unless a client chooses to opt out. A copy of the recording will be made available to the Tribunal if the client appeals to the First-Tier Tribunal for Scotland.

Clients will always receive a copy of their consultation report with their decision.

Reviews

Can be laborious and unnecessarily intrusive.

We will take a light-touch and person-centred approach – only gathering any additional information needed to make an informed decision on whether the impact of a client's condition or disability has changed sufficiently to warrant a change in award. Our aim is to minimise stress and anxiety.

DWP can review an award early, for any reason. The only exception is Attendance Allowance which is not usually reviewed.

If Social Security Scotland does decide to review an award early, we will provide reasons why, and an award will continue during a review period to avoid any cliff-edges.

Contact: Colette Hughes (Colette.Hughes@gov.scot)



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Riaghaltas na h-Alba
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