

# **Disability Assistance (Miscellaneous Amendment) (Scotland) Regulations 2023**

**Children's Rights and Wellbeing Impact  
Assessment (CRWIA)**

**September 2023**

# **Children’s Rights and Wellbeing Impact Assessment (CRWIA) of the Disability Assistance (Miscellaneous Amendment) (Scotland) Regulations 2023**

## **Executive Summary**

1. The Social Security (Scotland) Act 2018 (the 2018 Act) sets out the broad framework for the delivery of social security in Scotland. Child Disability Payment was the first of three types of disability assistance to be introduced by the Scottish Government and launched nationally on 22 November 2021. It is available to children and young people from the ages of 3 months to 18 years old who have care and/or mobility needs as a result of a disability.
2. Adult Disability Payment was also introduced by the Scottish Government on 29 August 2022. This form of assistance provides disabled individuals with support for extra costs incurred as a result of disability. Both Child Disability Payment and Adult Disability Payment have been co-designed with stakeholders and disabled people to ensure that the values of dignity, fairness and respect are embedded throughout.
3. In addition to supporting new applications, Scottish Ministers have made provision for the transfer of responsibility for delivering disability benefits for individuals who receive Personal Independence Payment and Disability Living Allowance for Children from the Department for Work and Pensions to Social Security Scotland. They are also responsible for changing the disability benefits for these individuals from Personal Independence to Adult Disability Payment and Disability Living Allowance for Children to Child Disability Payment. We refer to this process as “case transfer”.
4. The Disability Assistance (Miscellaneous Amendment) (Scotland) Regulations 2023 make amendments to the following sets of principal regulations for Child Disability Payment and Adult Disability Payment: the Disability Assistance for Children and Young People (Scotland) Regulations 2021; the Disability Assistance for Working Age People (Scotland) Regulations 2022; and the Disability Assistance for Working Age People (Transitional Provisions and Miscellaneous Amendment) (Scotland) Regulations 2022. These changes to the principal regulations are intended to smooth the transition for individuals moving between these benefits. In addition they include some minor technical amendments. They also make a small adjustment to the Social Security (Invalid Care Allowance) Regulations 1976 to clarify eligibility criteria for Carer’s Allowance.
5. These changes build on the 2018 Act’s framework of a system that is underpinned by dignity, respect and a human rights based approach to delivering social security for the people of Scotland. This impact assessment is one of a package to accompany the regulations. The others are: Equality Impact Assessment (EQIA), Business and Regulatory Impact Assessment (BRIA); Island Community Impact Assessment (ICIA) and the Fairer Scotland Duty Assessment.
6. Amending the principal regulations ensures that Child Disability Payment and Adult Disability Payment entitlement is aligned to our policy intent, which is to help improve outcomes for disabled people, by providing financial assistance to

help meet the additional costs associated with care and mobility needs as a result of being disabled. To achieve this we are doing the following:

### **Changes to the Child Disability Payment and Adult Disability Payment Regulations which relate to the Child Disability Payment to Adult Disability Payment journey**

7. The Scottish Government recognises the vital importance of supporting young people who are transitioning between different forms of social security assistance. We have listened to disabled people and people with long-term health conditions with experience of the social security system who told us that transitioning between child and adult services can be challenging.
8. We have already taken a number of actions to ensure that this process is less burdensome and more seamless than under the UK system, such as extending eligibility to 18 for those individuals in receipt of Child Disability Payment before the age of 16 to ensure continuity for young people at what we have been told is a difficult transition period for them. We have also provided individuals with the choice to make an application in many different ways including by post, online, by phone and with face-to-face support from our Local Delivery team.
9. We consider that the amendments we are making to the principal regulations for Child Disability Payment and Adult Disability Payment will have a positive impact on individuals with protected characteristics as they intend to smooth the journey of those individuals transitioning from Child Disability Payment to Adult Disability Payment.
10. One way we are doing this is by amending the Adult Disability Payment Regulations to enable the payment cycles of people moving from Child Disability Payment to Adult Disability Payment to be maintained. This will ensure that young people who are transitioning from Child Disability Payment to Adult Disability Payment will receive their Adult Disability Payment on the same date that their Child Disability Payment was previously paid.
11. The move to align the payment cycles of people moving from Child Disability Payment to Adult Disability Payment will offer advantages for smooth processing. It will avoid the need for Child Disability Payment to end with a smaller payment covering part of a payment cycle, and therefore offers an administrative advantage.

At the moment, this group of young people are entitled to Adult Disability Payment from the date that a determination of entitlement for Adult Disability Payment is made, meaning that they receive their Adult Disability Payment later than those who were not in receipt of Child Disability Payment before becoming entitled to Adult Disability Payment. We are altering the start date of entitlement for Adult Disability Payment so that it begins on the day after the individual's next Child Disability Payment payment cycle ends, following the Adult Disability Payment determination. Consequently, we are making a small amendment to the Child Disability Payment and Adult Disability Payment Regulations. These amendments are to bring entitlement to Child Disability Payment to an end on the day of their next payment of Child Disability Payment, after a determination of entitlement to Adult Disability Payment has been made, and for entitlement to

Adult Disability Payment to begin the day after that Child Disability Payment payment. Terminally ill clients moving from Child Disability Payment to Adult Disability Payment will similarly have their weekly in advance payment cycles maintained.

This change to preserve payment dates will benefit disabled young people moving from Child Disability Payment to Adult Disability Payment as it will provide them with financial continuity, reduce the risk of gaps in payment or overpayments and ease their transition from one form of assistance to another.

There are a small and finite number of non-terminally ill clients who also receive their payments weekly in advance as Social Security Scotland have honoured their payment cycle when their award was transferred from the Department for Work and Pensions. These clients will move from a weekly in advance to a four weekly in arrears payment cycle without any break in entitlement, to align with all other ADP applicants.

Importantly, this change does not negatively impact on the overall amount a person will receive.

12. There is provision in the Child Disability Payment Regulations to extend entitlement to Child Disability Payment to age 19 for those transferring from Disability Living Allowance to Child Disability Payment and those who have made a cross border move to Scotland from elsewhere in the United Kingdom. This was included to provide case transfer individuals, approaching 18 at the time of transfer, sufficient time to make their Adult Disability Payment application before their Child Disability Payment comes to an end. We are now at a place in the case transfer process where all young people over age 16 have now transferred to Child Disability Payment and are receiving the appropriate communications about making an application for Adult Disability Payment. This means it is now appropriate to narrow this provision. As such, we are amending this provision to apply only to those who turn 18 on or before 31<sup>st</sup> December 2023. This will ensure that this policy has the desired impact which is to protect those young people transitioning from Child Disability Payment to Adult Disability Payment as they approach 18. It also means that going forwards, regardless of whether an individual was originally in receipt of Disability Living Allowance or not, the same rules, regarding entitlement to Child Disability Payment over the age of 18, apply.

### **Other Amendments to the Child Disability Payment, Adult Disability Payment and Adult Disability Payment Transitional Provisions Regulations**

13. These amendments also include a set of minor technical amendments to the Child Disability Payment, Adult Disability Payment and Adult Disability Payment transitional provisions Regulations. As such, we do not consider that they will have a significant impact on groups of people or communities but we have noted any potential impacts that have arisen as part of this impact assessment.
14. We are creating additional provisions within the Child Disability Payment and Adult Disability Payment Regulations to make explicit that the care/daily living component of Adult Disability Payment/Child Disability Payment is restricted to

individuals for whom the United Kingdom is the correct state for paying these components. We are aware that the residence criteria is more likely to impact individuals who regularly move between Scotland and the rest of the UK but there is insufficient data available to determine the level of this potential impact. We will continue to engage with relevant stakeholders and key organisations to monitor the impacts of this policy. These amendments were shared with SCoSS for scrutiny in February 2023.

15. The Child Disability Payment and Adult Disability Payment Regulations are also being amended to make provision to state that, where a Determination Without Application is made on an individual's entitlement to Adult Disability Payment when Scottish Ministers become aware that the individual has died, their entitlement will end on the day the person dies. This has always been the policy intention but this additional clarification ensures this is put beyond doubt. We are also clarifying Regulation 34(b) of the Child Disability Payment Regulations by inserting the word 'Payment' after 'Child Disability' as this is currently missing.
16. The Adult Disability Payment and Adult Disability Payment transitional provisions Regulations are being amended to clarify who changes are reported to before the transfer determination. Further amendments to the Adult Disability Payment transitional provisions Regulations clarify when and how changes that occur after the point of transfer should affect a person's award.
17. These are technical amendments and we do not foresee any significant impact on groups or communities other than to clarify these provisions in terms of the Regulations.

### **Amendment to the Social Security (Invalid Care Allowance) Regulations 1976**

18. We are making amendments to the Social Security (Invalid Care Allowance) Regulations 1976 to reflect the current legal position for carers to be able to receive Carer's Allowance when abroad and caring for someone who is in receipt of Child Disability Payment or Adult Disability Payment. We consider that this will have a positive impact for disabled people given that it will ensure that carers abroad who are caring for a disabled person in receipt of Child Disability Payment or Adult Disability Payment receive the assistance they are entitled to.
19. We are amending the list at Regulation 9(2)(b) of the 1976 Regulations to include the care component of Child Disability Payment at the middle or highest rate and the daily living component of Adult Disability Payment at the standard or enhanced rate.
20. This will ensure carers providing care to someone in receipt of Child Disability Payment or Adult Disability Payment are treated consistently with those providing care to someone in receipt of Attendance Allowance, Disability Living Allowance or Personal Independence Payment.
24. This Child Rights and Wellbeing Assessment sets out the Scottish Government's analysis of the impact of the regulations on children and young people's wellbeing who may be affected by the implementation of these amendments.

25. The delivery of these amendments in Scotland is anticipated to have a broadly positive impact on children's rights and welfare. We are delivering person centred disability assistance rooted in the values of providing disabled people and their families with dignity, fairness and respect.

## **Background**

26. Specific questions about key principles of social security in Scotland were asked as part of the [Scottish Government's Consultation on Social Security \(2016\)](#) and further detailed questions about disability benefits for children and young people were asked in the [Scottish Government's Consultation on Disability Assistance in Scotland \(2019\)](#). Scottish Government officials also gathered evidence from a range of sources to identify options to support children and young people through the disability benefits system.

27. In July 2016 the Scottish Government launched a public consultation to support the development of a framework that would become the Social Security (Scotland) Bill. This received more than 200 responses to questions relating to disability benefits with an even split between organisational and individual responses.

28. There were 521 formal written responses submitted, of which 241 were from organisations and 280 from individual respondents. Of the 241 organisational responses, 81 were received from stakeholder groups relating to children/young people, equalities and human rights, disability and long term conditions, and carers. The independent analysis of the responses along with the Scottish Government response were published on 22 May 2017<sup>1</sup>.

29. The Scottish Government has set up Social Security Experience Panels with over 2,400 people across Scotland registered as panel members when the Panels opened in 2017. The Panels involve people with lived experience of the benefits that have been introduced in Scotland.

30. Two surveys regarding the case transfer process were sent out to Experience Panel members in January and February 2019. 404 and 559 responses were received respectively. A series of individual and group interviews were also conducted. Results from both surveys and the interviews were published in 2019.<sup>2</sup> These surveys confirmed that of most importance to panel members was that they continue to receive the correct payment at the correct time. The changes we are making in relation to smoothing the journey for individuals moving from Child Disability Payment to Adult Disability Payment mean that the payment cycles for these individuals will be maintained and they will receive their Adult Disability Payment on the same date their Child Disability Payment was previously paid.

31. The Consultation on Disability Assistance built on the work on the Experience Panels and was published on 5 March 2019. In line with the principles of dignity, fairness and respect, the Scottish Government sought the views of the people of

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<sup>1</sup> [Analysis of written responses to the consultation on social security in Scotland - gov.scot \(www.gov.scot\)](#)

<sup>2</sup> See [DWP benefits case transfers: survey findings - gov.scot \(www.gov.scot\)](#) and [Social Security Experience Panels: designing the benefits case transfer process - gov.scot \(www.gov.scot\)](#)

Scotland on the three proposed disability assistance benefits. The consultation closed on 28 May 2019, having received 262 replies, of which 74 were from stakeholder organisations and 188 were from individuals. The consultation helped to inform the development of the principal regulations for Child Disability Payment and Adult Disability Payment, taking into account the views of people with a lived experience of social security.

32. The Scottish Government has also undertaken ongoing consultation with stakeholders through our independent Disability and Carers Benefits Expert Advisory Group (DACBEAG). DACBEAG is chaired by Dr Jim McCormick and comprises individuals with significant practical experience of the UK social security system, from a range of professional backgrounds. It is independent of the Scottish Government. The Group's role is to advise Scottish Ministers on specific policy options for disability assistance and carers benefits due to be delivered in Scotland. DACBEAG's advice helped to inform the development of Adult Disability Payment policy and the principal regulations that we are amending and considering the impact of these amendments on children's rights and wellbeing.
33. The Ill Health and Disability Benefits Stakeholder Reference Group was set up in March 2016 to inform and influence the development of policy options relating to devolved Disability Assistance. This group has advised on the potential impact of policy decisions as well as stakeholder engagement. They mostly advise on the impact of policy decisions on disabled people and the social security system as a whole.
34. On 21 December 2020, the Scottish Government launched a public consultation on its proposals for the delivery of Adult Disability Payment and on drafts of the accompanying impact assessments. The consultation ran until 15 March 2021 and received 127 responses from individuals and stakeholder organisations. The consultation wanted to gather views to ensure that the proposals were aligned with the principles of dignity, fairness and respect. These amendments are also intended to align with these principles and the overall policy intent which is to improve outcomes for disabled people and part of ensuring this is by considering the impacts of these proposals on children's rights and wellbeing.
35. Overall these consultations and advice from stakeholder groups helped to inform the principal regulations for Child Disability Payment and Adult Disability Payment which we are amending as part of these regulations. We are doing this to ensure that the journey of individuals moving between these forms of assistance is as smooth as possible. As part of the development of these amendments we have considered the current impact of these regulations on the Child Disability Payment to Adult Disability Payment journey and the potential impacts of the amendments we propose to smooth this transition which are detailed below in the 'key findings' section.

## **Scope of the CRWIA, identifying the children and young people affected by the policy and summarising the evidence base**

36. Consideration has been given to the impact of the policy on the rights and wellbeing of children and young people in Scotland. This policy should have a direct, positive impact on disabled children and young people, their families and carers.
37. The views of people with lived experience have been captured through the range of user research and stakeholder engagement activities outlined in the background section. These events have provided stakeholders the opportunity to feed into the early development of the principal policy being amended.
38. A recent report published by the Scottish Government<sup>3</sup> found that the youngest adults had the highest poverty rates. Between 2017-20, 28% of young adults aged 16-24 were in relative poverty (140,000 adults each year), compared to 15% of adults aged 65 and older (150,000 adults). The age groups in between all had similar poverty rates between 17% and 19%.
39. In 2017-20, 28% of children aged four and under were in relative poverty (80,000 children each year). This compares to 22% (100,000 children) of the five to twelve year-olds, and 25% (60,000) of teenagers<sup>4</sup>.
40. After housing costs, the poverty rate was 29% (640,000 people each year) for people living with a disabled household member, and 16% (500,000 people) for those without when disability benefits such as Disability Living Allowance, Attendance Allowance or Personal Independence Payment were excluded<sup>5</sup>.
41. There is also a positive correlation between disability and unemployment. Recent statistics have found that, compared to non-disabled people in the UK (81.7%), disabled people had a significantly lower rate of employment (53.6%).<sup>6</sup> In Scotland, 45.6% of disabled people were employed compared to 81.1% of non-disabled individuals.<sup>7</sup>
42. 14% of 'workless families' (defined as families where parents are predominately out of work or have little connection to the labour market; who live in social rented accommodation and are reliant on benefits for their income) have one or more children with a disability or long-term illness. A further 17% of 'struggling to get by' families (unemployed or working part-time, half of which are single-parent families) have one or more children with a disability or long-term illness<sup>8</sup>. Child material deprivation in households containing a disabled person reaches 20% compared to 8% of households without a disabled person<sup>9</sup>.

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<sup>3</sup> [Poverty and Income Inequality in Scotland 2017-20 \(data.gov.scot\)](https://data.gov.scot)

<sup>4</sup> [Poverty and Income Inequality in Scotland 2017-20 \(data.gov.scot\)](https://data.gov.scot)

<sup>5</sup> [Poverty and Income Inequality in Scotland 2017-20 \(data.gov.scot\)](https://data.gov.scot)

<sup>6</sup> [Disabled people in employment - House of Commons Library \(parliament.uk\)](https://parliament.uk)

<sup>7</sup> [Disabled People and the Labour Market in Scotland \(www.gov.scot\)](https://www.gov.scot)

<sup>8</sup> [Poverty types: Families with children - Poverty in Perspective: a typology of poverty in Scotland - gov.scot \(www.gov.scot\)](https://www.gov.scot)

<sup>9</sup> [2. Children And Young People - Scotland's Wellbeing: national outcomes for disabled people - gov.scot \(www.gov.scot\)](https://www.gov.scot)

43. Even where one or more parent in the household is in employment, within families with a disabled child, the same level of income secures a lower standard of living than it would for a disabled person.
44. Disabled people face higher costs than non-disabled people, such as the cost of specialist equipment, therapies and home adaptations to manage a condition<sup>10</sup>. Travel costs too, may be higher as families have to afford the cost of taxis to and from hospital where it is not possible to use public transport (and/or public transport may not be available).
45. By identifying the children and young people affected by the policy and summarising the evidence base, we are best able to make an assessment of the scale of impact this policy will have as well as helping us recognise the groups of individuals that would be most severely impacted. For example, as these regulations provide more financial certainty to families, this would have a positive impact on the significant proportion of 'workless families' with a disabled child as it would help them plan their finances.

## Data

46. The Scottish Health Survey 2021 provides an accurate estimate of the number of disabled children and young people in Scotland. Within the 0-15 age group, 21% of children have a longstanding illness<sup>11</sup>. For young people aged 16-24, 26% of young people have a longstanding illness.
47. In 2021, there were just over 900,000 children aged 15 and below in Scotland and about 225,000 young people aged between 16 and 19<sup>12</sup>. In November 2021, prior to the wholesale start of case transfer from Disability Living Allowance for children to Child Disability Payment, there were just under 44,000 children entitled to Disability Living Allowance in Scotland. Of these, there were around 3,900 were aged between 0-5, just over 19,000 were aged between 5-10, and almost 21,000 individuals were between the ages of 11-15<sup>13</sup>.
48. As of 31 December 2022, it is estimated that 54,375 children and young people were in receipt of Child Disability Payment. Of this total, 13,005 were new applicants and 41,370 were people who had their award transferred to Child Disability Payment<sup>14</sup>. This data is important as these amendments will have a primary impact on the young people in the Child Disability Payment caseload as they relate to the journey for people moving between Child Disability Payment and Adult Disability Payment.
49. It is important to note that the case transfer process from Disability Living Allowance for Children to Child Disability Payment is not complete and is still

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<sup>10</sup> [Disabled people's costs of living | JRF \(www.jrf.org.uk\)](http://www.jrf.org.uk)

<sup>11</sup> [Scottish Health Survey 2021: supplementary tables - gov.scot \(www.gov.scot\)](http://www.gov.scot)

<sup>12</sup> [Mid-2021 Population Estimates Scotland | National Records of Scotland \(nrscotland.gov.uk\)](http://nrscotland.gov.uk)

<sup>13</sup> [Stat-Xplore - Table View \(dwp.gov.uk\)](http://dwp.gov.uk)

<sup>14</sup> [Child Disability Payment: high level statistics to 31 December 2022 - gov.scot \(www.gov.scot\)](http://www.gov.scot)

ongoing. Therefore, the above data in relation to children and young people in receipt of Child Disability Payment will not be a wholly accurate picture of those receiving disability assistance in Scotland or under Social Security Scotland.

50. Data and views were sourced from:

- Scottish Health Survey 2021;
- Census 2011;
- DWP Stat Xplore;
- National Records of Scotland Population Statistics;
- Consultation on social security in Scotland 2016 and
- Consultation on Disability Assistance in Scotland 2019
- Social Security Scotland High Level Statistics 2022/2023

### **Wider context**

51. The CRWIA should be read in conjunction with the other impact assessments conducted for the policy; the Business and Regulatory Impact Assessment, the Island Communities Impact Assessment, the Equality Impact Assessment, and the Fairer Scotland Duty Assessment.

### **United Nations Convention of the Rights of the Child (UNCRC)**

52. The policy intent has been assessed against the relevant UNCRC articles:

53. **Article 3 – Best Interests of the Child:** Social Security Scotland has been developed around the principles of dignity, fairness and respect, transparent decision making, a person centred approach and rooted in the belief that social security is a human right. Both Child and Adult Disability Payment have these principles embedded and these amendments seek to enhance the way in which the assistance is delivered particularly for those moving between the benefits.

54. **Article 6 – Life, Survival and Development:** Child Disability Payment is intended to mitigate the additional costs disabled children and young people, and their families, incur in meeting their care and mobility needs. Mitigation of these additional costs provides children and young people with funding to access community resources, education and social activities, develop skills and new experiences and to have a good quality of life. By introducing these amendments, we are helping to ensure that children and young people have financial continuity with regard to timing of payments as they transition to Adult Disability Payment. This is particularly valuable at a time when young people are experiencing many other transitions which can be the source of a great deal of stress and anxiety for them and their families.

55. **Article 12 – Respect for the Views of the Child:** Both Child and Adult Disability Payment have been developed through consultation with, and input from, people with lived experience of the current social security system. This includes young people, their families and carers through our Social Security Experience Panels. These amendments were informed by those findings and our continued engagement with disabled people and stakeholder groups.

56. **Article 23 – Children with a Disability:** Child Disability Payment ensures that individuals who receive it are more likely to be able to live a full life, to be as independent as possible and to be able to engage in the community. By ensuring that some of the additional costs incurred as a result of additional care or mobility requirements are mitigated, eligible disabled young people will have the option to engage in more activities of their choosing. These amendments strengthen our commitment to support these young people by ensuring they have further stability through their transition to Adult Disability Payment. This will help to ease any additional anxiety during a potentially stressful period.

57. **Article 26 – Social Security:** These amendments will help ensure that young people moving from one form of assistance to another experience a smooth transition which includes receiving payments at the same time.

58. **Article 27 – Adequate Standard of Living:** The key policy intent of Child Disability Payment and Adult Disability Payment is to provide individuals with payments to help mitigate the costs they incur as a result of a disability or long term condition. These amendments, therefore, aim to support that intent but ensuring that no individual is disadvantaged through their transition to Adult Disability Payment. This includes providing financial continuity with regard to timing of payments. By ensuring this continuity, young people in receipt of either payment will be able to use it to pay for things such as care, access to community resources, transport, social activities, and any other goods or services of their choosing.

### **Getting it Right for Every Child (GIRFEC) Wellbeing Indicators**

59. The Children and Young People (Scotland) Act 2014 introduced a range of indicators used to measure children and young peoples' wellbeing. Our assessment of these amendments against this framework is:

60. **Healthy:** The amendments will help improve the health of disabled young people, by ensuring that they receive consistent financial support throughout potentially stressful periods of time, including during their transition to Adult Disability Payment, by contributing towards the additional costs of care and transport.

61. **Achieving:** By providing continuity of payment dates and ensuring no one is financially disadvantaged during the transition periods, the amendments will allow individuals to plan for their futures with more confidence and will directly contribute to enabling disabled individuals to engage in activities of their choosing including education, development opportunities and social activities.

62. **Active:** As outlined above, the amendments aim to ensure that no one is financially disadvantaged when moving between benefits and give young people confidence to continue to carry out their routines and activities throughout these periods. The provision of care or daily living and mobility components of both Child and Adult Disability Payment will provide funds to enable individuals, including young people, to engage in community activities of their choosing, ensuring that they have the option to choose to engage in community based activities and resources.

63. **Respected:** The principle of respect for the dignity of individuals is at the heart of the new Scottish social security system and specified in the Social Security (Scotland) Act 2018. These amendments will further embed these principles, recognising that disabled individuals, including young people, have the right to engage in activities of their choosing and that we should facilitate this by ensuring that changes from one form of assistance to another does not impact on the timing of when receive the payment. The administration of these amendments has been designed to ensure that people are treated with dignity and respect and provided with a service that takes account of, and meets, their needs.
64. **Responsible:** Young people over the age of 16, who are able to manage their own affairs can receive Child Disability Payment directly rather than it being paid to a person (most often a parent) who is responsible for them and able to act on their behalf. This means in many cases young people moving from Child to Adult Disability Payment will be managing this aspect of their finances. The move to align the payment cycles when young people transfer from Child to Adult Disability Payment provides financial continuity which will support them to manage this transition. Whilst it is important that we enable young people to take responsibility for their affairs, we also acknowledge that this moving between benefits can be a stressful time. These amendments aim to smooth this transition further so individuals can take responsibility for their affairs with less anxiety.

## **Key Findings and Policy Aims**

### **Changes to the Child Disability Payment and Adult Disability Payment Regulations which relate to the Child Disability Payment to Adult Disability Payment journey**

65. We consider that these amendments will have a positive impact on promoting children's rights and wellbeing. These changes will positively impact disabled young people who are moving from Child Disability Payment to Adult Disability Payment.

At the moment, this group of young people are entitled to Adult Disability Payment from the date that a determination of entitlement for Adult Disability Payment is made, meaning that they receive their Adult Disability Payment later than those who were not in receipt of Child Disability Payment before becoming entitled to Adult Disability Payment. We are altering the start date of entitlement for Adult Disability Payment so that it begins on the day after the individual's next Child Disability Payment payment cycle ends, following the Adult Disability Payment determination. Consequently, we are making a small amendment to the Child Disability Payment and Adult Disability Payment Regulations. These amendments are to bring entitlement to Child Disability Payment to an end on the day of their next payment of Child Disability Payment, after a determination of entitlement to Adult Disability Payment has been made, and for entitlement to Adult Disability Payment to begin the day after that Child Disability Payment payment. Terminally ill clients moving from Child Disability Payment to Adult Disability Payment will similarly have their weekly in advance payment cycles maintained.

This change to preserve payment dates will benefit disabled young people moving from Child Disability Payment to Adult Disability Payment as it will provide them with financial continuity, reduce the risk of gaps in payment or overpayments and ease their transition from one form of assistance to another. There are a small and finite number of non-terminally ill clients who also receive their payments weekly in advance as Social Security Scotland have honoured their payment cycle when their award was transferred from the Department for Work and Pensions. These clients will move from a weekly in advance to a four weekly in arrears payment cycle without any break in entitlement, to align with all other ADP applicants. Importantly, this change does not negatively impact on the overall amount a person will receive.

66. Furthermore, there will be extensive support and advice available to individuals undergoing this process. Support will be available through a choice of channels. It will be made clear to all individuals that there are some instances in which it will be an individual's interests to remain in receipt of Child Disability Payment for as long as possible, and others where they may receive more favourable entitlement to Adult Disability Payment. We will recommend that individuals access independent advice in order to make an informed decision about what is best for them.
67. There is provision in the Child Disability Payment Regulations to extend entitlement to Child Disability Payment to age 19 for those transferring from Disability Living Allowance to Child Disability Payment or those moving to Child Disability Payment following a cross border move. This was included to provide case transfer or cross border individuals, approaching 18 at the time of transfer, sufficient time to make their Adult Disability Payment application before their Child Disability Payment comes to an end. We are now at a point in the case transfer process where we know all Disability Living Allowance for Children recipients over age 16 have been transferred, are receiving appropriate communications about making an application for Adult Disability Payment and have adequate time to submit their Adult Disability Payment application.
68. As such, we are amending this provision to apply only to those who turn 18 on or before 31 December 2023. We are confident this means the extension to age 19 has enabled those individuals who needed additional time to apply for Adult Disability Payment, have had that. Following these amendments all young people who are aged 18 after 31 December 2023, regardless of whether an individual was originally in receipt of Disability Living Allowance or not, will be subject to the same rules regarding receipt of Child Disability Payment over the age of 18. They will all be eligible for Child Disability Payment to continue over age 18 (up to a maximum age of 19) if they have submitted a full application for Adult Disability Payment before they reach 18. Child Disability Payment will then continue until the earlier of the date their Adult Disability Payment commences (or if their Adult Disability Payment application is unsuccessful the date of that determination) or when they reach age 19.
69. Going forwards there is no issue of people not having time to submit an Adult Disability Payment application; these can be made at any point from 15 years and

9 months onwards and Child Disability Payment individuals receive multiple communications regarding when they may want to make an application for Adult Disability Payment in the period between 15 years 9 months and 18 years.

### **Other Amendments to the Child Disability Payment, Adult Disability Payment, and Adult Disability Payment transitional provisions Regulations**

70. We are amending the Child Disability Payment and Adult Disability Payment Regulations to make explicit that the care/daily living component of Child Disability Payment / Adult Disability Payment is restricted to individuals for whom the United Kingdom is the correct state for paying these components. This clarifies the existing legal position, and as such is expected to have no impact.
71. The Child Disability Payment and Adult Disability Payment Regulations are also being amended to make provision to state that, where a Determination Without Application is made on an individual's entitlement to Adult Disability Payment when Scottish Ministers become aware that the individual has died, their entitlement will end on the day the person dies. This has always been the policy intention but this additional clarification ensures this is put beyond doubt.
72. We are also clarifying Regulation 34(b) of the Child Disability Payment Regulations by inserting the word 'Payment' after 'Child Disability' as this is currently missing.
73. The Adult Disability Payment and Adult Disability Payment transitional provisions Regulations are being amended to clarify who changes are reported to before the transfer determination. Further amendments to the Adult Disability Payment transitional provisions Regulations clarify when and how changes that occur after the point of transfer should affect a person's award.
74. These are technical amendments and we do not consider that they will have any significant impact on individuals other than to clarify these provisions in terms of the Regulations..

### **Amendments to the Social Security (Invalid Care Allowance)**

75. We are making amendments to the Social Security (Invalid Care Allowance) Regulations 1976 to reflect the current legal position for carers to be able to receive Carer's Allowance when abroad and caring for someone who is in receipt of Child Disability Payment or Adult Disability Payment. This will ensure Carers providing care to someone in receipt of Child Disability Payment or Adult Disability Payment are treated consistently with those providing care to someone on Attendance Allowance, Disability Living Allowance or Personal Independence Payment.
76. There is not sufficient data available to evaluate the impact of this amendment on individuals however this is a small amendment to align with what currently happens and as such we do not predict any significant impact. We will however continue to engage with relevant stakeholders and key organisations to monitor the impacts of this policy.

## **Conclusion**

77. The initial development of Child and Adult Disability Payment and how they will continue to be delivered has been informed by engagement with a range of stakeholders and people with lived experience of the current benefit system. The policy intent of both Child and Adult Disability Payment is to provide payments to contribute to the additional care and mobility costs resulting from a disability or long term condition. The provision of this assistance is intended to enable people to mitigate these costs, and to mitigate societal barriers to ensure they are able to live a life of their own choosing. The amendments aim to bolster these commitments to ensure that there is no doubt regarding current policy and provisions and to ensure that children and young people are treated with dignity, fairness and respect throughout their Social Security Scotland journey.
78. Based on the evidence gathered, previous consultative engagement with users and stakeholders, and assessment of the demographic makeup of current Child Disability Payment recipients, the Scottish Government does not consider that these amendments infringes upon the rights of the child as set out in the articles of the UNCRC. The assessed impacts of the policy make a positive contribution to the rights and wellbeing of young people who are eligible to receive Child or Adult Disability Payment as set out in the assessment of the policy against UNCRC articles outlined above.
79. The Scottish Government has assessed these amendments against the indicators of wellbeing as set out by the Children and Young People (Scotland) Act 2014 and has concluded that the policy is likely to have a positive impact against each of the indicators, for young people who meet the eligibility rules.

## **Monitoring and Review**

80. The Social Security (Scotland) Act 2018 places a duty on the Scottish Ministers to report annually to the Scottish Parliament on the performance of the Scottish social security system during the previous financial year. The report is to describe what the Scottish Ministers have done in that year to meet the expectations on them set out in the charter.
81. The Communities Analysis Division within the Scottish Government will also run a comprehensive evaluation programme to consider the impact of the changes to disability assistance in Scotland including considering the transition for those moving from Child Disability Payment to Adult Disability Payment which we have further improved by these amendments.



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