

# **Scottish Adult Disability Living Allowance**

## **Business and Regulatory Impact Assessment**

**November 2024**

# Business and Regulatory Impact Assessment

## 1. Title of Proposal

Disability Assistance (Scottish Adult Disability Living Allowance) Regulations 2025

## 2. Purpose and Intended Effect

### 2.1 Background

The Scotland Act 2016 devolved some social security powers to the Scottish Government and Scottish Parliament for the first time. The Social Security (Scotland) Act 2018 (the 2018 Act) sets out the broad framework for the delivery of the Scottish Government's social security benefits<sup>1</sup> and in 2018 Social Security Scotland was set up in to deliver devolved benefits on behalf of Scottish Ministers. The programme of devolution is expected to be completed by 2025/26. A major element of this programme is the transfer of the awards of around 700,000 children and adults in receipt of disability and carer benefits from the Department for Work and Pensions (DWP) to Social Security Scotland.

On 1 April 2020, executive and legal competence for disability benefits, including Disability Living Allowance, Personal Independence Payment and Attendance Allowance was transferred to Scottish Ministers. The Scottish Government has now replaced Disability Living Allowance for children with Child Disability Payment, and Personal Independence Payment with Adult Disability Payment, and intends to replace Attendance Allowance with Pension Age Disability Payment from 2025. All children and young people in Scotland that were receiving Disability Living Allowance have had their awards transferred to Child Disability Payment and the process for transferring people's Personal Independence Payment awards to Adult Disability Payment is ongoing.

Recognising that the disability benefits being transferred are critical for some of the most vulnerable people in our society, Scottish Ministers have set out a number of case transfer principles which have been used to guide the development of the approach to case transfer. These principles have been developed through engagement with existing benefit recipients and stakeholder organisations. Learning lessons from previous benefit transfers within the Department for Work and Pensions. The principles are:

- **Correct payment at the correct time** – ensuring that the case transfer process is designed so that clients will receive the same amount for the Scottish benefit as they received for the corresponding UK benefit. A safe and secure transfer is the priority.
- **No re-applications** - we will not require clients to apply for their new benefit as part of the case transfer. We will work with Department for Work and Pensions to move clients automatically to Social Security Scotland and the corresponding new Scottish benefit.
- **No face to face Department for Work and Pensions re-assessments** - we will, wherever possible, ensure that no-one will be subject to a face to face re-assessment by Department for Work and Pensions when new applications for Adult Disability Payment are open across Scotland.

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<sup>1</sup> [Social Security \(Scotland\) Act 2018](#)

- **Complete as soon as possible** – Scottish Ministers have been clear that they want to complete the transfer of cases as soon as is possible in a way that will be safe and secure, and not create unacceptable risks for clients.
- **Clear communication with clients** – we will inform our clients the date their case will be transferred and will keep them informed at the various stages of the case transfer process.

A key to delivering on these principles is to ensure like-for-like transfer. This means that new forms of disability assistance in Scotland introduced under the Social Security Scotland Act 2018 have been designed to have the same main eligibility criteria and financial values as the UK wide benefits they are replacing. This means clients' awards can be transferred without clients having to re-apply, be re-assessed or see any change in their rate of award. These principles were developed through engagement with

Disability Living Allowance for adults was replaced by Personal Independence Payment in 2013, and only a small group of people remain on Disability Living Allowance. Adult Disability Payment has now replaced Personal Independence Payment in Scotland and is the primary disability benefit available for working age adults in Scotland. Disability Living Allowance continues to be delivered in Scotland by the Department for Work and Pensions on behalf of the Scottish Government under an Agency Agreement. There are two distinct groups of people remaining on this benefit:

- **Disability Living Allowance '65+'**

People who were over the age of 65 when Personal Independence Payment was introduced in 2013 (i.e. born on or before 8 April 1948) received a commitment from the Department for Work and Pensions that they could continue to receive Disability Living Allowance for as long as they are eligible to do so. These individuals have never been in scope for transfer to Personal Independence Payment or Adult Disability Payment, and have continued to have any change in their circumstances managed by the Department for Work and Pensions under the Disability Living Allowance rules.

- **'Working Age' Disability Living Allowance**

This group consists of those in receipt of Disability Living Allowance who were born after 8 April 1948 and have not yet transferred either to Personal Independence Payment (before 1 April 2020) or to Adult Disability Payment. This cohort are understood to have long-standing, persistent needs – the fact that they remain on Disability Living Allowance suggests that they have not reported a significant change in their circumstances since 2013. Until Scottish Adult Disability Living Allowance is introduced, individuals in this group who report a relevant change of circumstances will continue to transfer to Adult Disability Payment.

Scottish Adult Disability Living Allowance will be delivered by Social Security Scotland on behalf of Scottish Ministers. Scottish Adult Disability Living Allowance will, like Disability Living Allowance for adults, be a closed benefit meaning that there will be no new applications. It is being introduced to facilitate a safe and secure transfer of awards from the Department for Work and Pensions to Social Security Scotland, while continuing to meet commitments given by the Department for Work and Pensions that those the 65+ group could remain on Disability Living Allowance for as long as they remained entitled. The introduction of Scottish Adult Disability Living Allowance also provides the opportunity to provide a like-for-like transfer for those in the 'Working Age' group.

The Disability Assistance (Scottish Adult Disability Living Allowance) Regulations 2025 set out the eligibility criteria and how Social Security Scotland will deliver Scottish Adult Disability Living Allowance. Section 31 of the 2018 Act sets out the legal basis in which Scottish Ministers make regulations for the rules and structures of disability assistance. The regulations also make provision for the case transfer process for adults in Scotland who currently receive Disability Living Allowance. The regulations also make provision for people to challenge a determination by requesting a re-determination, and subsequently they will be able to appeal to the Social Security Chamber of the First-tier Tribunal for Scotland.

## **2.2 Key Differences Between Disability Living Allowance and Scottish Adult Disability Living Allowance**

As part of the commitment to a safe and secure transfer, Scottish Ministers do not propose to make significant changes to the existing Disability Living Allowance eligibility criteria when introducing Scottish Adult Disability Living Allowance. Examples of this include the replication of the current 3-month qualifying period for Disability Living Allowance for those under the relevant age and capping the rate of the mobility component for clients over that age. By maintaining the current eligibility criteria, individuals in Scotland who are eligible for passported benefits and premiums from the UK Government will have seamless access to this vital support. This will provide security to people in Scotland when Scottish Adult Disability Living Allowance is rolled out.

However, there are some key changes along with a number of practical administrative differences between Scottish Adult Disability Living Allowance and Disability Living Allowance which Scottish Ministers expect to have a positive impact for disabled people in Scotland. These differences have been developed through the commitments under the Social Security Charter.<sup>2</sup> The Scottish Government recognises social security as a human right and has designed Social Security Scotland's services with the people who use them so that everyone is treated with dignity, fairness and respect. The Scottish Government is committed to continually improving Scottish disability benefits by continuing to engage with disabled people and stakeholders to identify areas for further improvement in future.

People who require further assistance or would prefer face-to-face support will be able to access that through Social Security Scotland's Local Delivery service. Local Delivery staff will provide one-to-one support and help disabled people to understand what Scottish Government benefits they may be entitled to. They can also provide assistance to complete relevant forms and take forward any follow-up actions relating to a person's ongoing award. This support will be of particular benefit to those on receipt of Scottish Adult Disability Living Allowance, as many clients in this cohort are older and/or vulnerable, and may find completing forms overwhelming and might not have access to a support network to assist them.

The Scottish Government launched the Social Security Independent Advocacy Service in January 2022 and has committed to investing £20.4 million in the service over the four years following the launch of the service.<sup>3</sup> The service is free and supports people who self-identify as a disabled person with advocacy when dealing with Social Security Scotland with regards to their benefit.

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<sup>2</sup> [Social Security Scotland Charter](#)

<sup>3</sup> [Social Security Scotland - New Independent Advocacy Service opens](#)

As with the Scottish Government's other disability benefits, a new approach to gathering supporting information is being utilised by Social Security Scotland which will help reduce stress and anxiety for individuals. A Case Manager will ordinarily only seek one piece of supporting information from a professional to support the decision-making process when making a determination on an individual's change of circumstances or following a scheduled review.

Case Managers will use a collaborative approach to help people gather supporting information from a professional, where an individual does not already have this to hand. This includes Case Managers obtaining supporting information from professionals on the individual's behalf. Case Managers can also assist in gathering supporting information from the individual's wider support network, such as a family member or unpaid carer, which can help Social Security Scotland to understand the individual's needs, conditions or disability.

The Scottish Government included provision in the 2018 Act to introduce a new definition of terminal illness that differs from the current UK Government definition. It removes the arbitrary 12 month timescale currently used by the Department for Work and Pensions. Instead, the judgement as to whether a person should be considered terminally ill for the purposes of determining eligibility for Scottish Adult Disability Living Allowance will be made by clinicians, based on guidance prepared by the Chief Medical Officer.<sup>4</sup>

The Scottish Government's new definition allows medical professionals, including registered nurses, to use their clinical judgement when determining whether an individual has a condition which can reasonably be expected to result in their death. This means that individuals who would otherwise not be entitled to Disability Living Allowance through Special Rules will be able to do so under the Scottish Government definition as part of Scottish Adult Disability Living Allowance, thereby having a positive impact on those with protected characteristics in Scotland.

During the Parliamentary passage of the 2018 Act, the inclusion of Short-term Assistance was welcomed by stakeholders and supported by Parliament. The Scottish Government has committed to providing Short-term Assistance where Social Security Scotland has made a determination to reduce or stop an on-going Scottish Government benefit and that determination is subject to a request for re-determination or an appeal. As with the Scottish Government's other disability benefits, Short-term Assistance will be available for those with an award of Scottish Adult Disability Living Allowance.

The intention of Short-term Assistance is to ensure individuals are not discouraged from challenging a review of their award determination or from accessing administrative justice, by having to manage, for a period, with a reduced income. Short-term Assistance is not available in the UK Government system. Providing support in this way is another example of where Scottish Ministers are removing barriers in the Scottish social security system.

Short-term Assistance will be available until the First-tier Tribunal for Scotland has made a determination, and is non-recoverable except in cases of fraud or error. Where a person is eligible, the value of Short-term Assistance will be the difference between the longstanding award paid prior to the reduction and the new level of award. This includes when that amount is now £nil because entitlement to the individual's award has stopped.

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<sup>4</sup> [Guidance for Doctors and Nurses Completing Benefits Assessment Under Special Rules in Scotland \(BASRiS\) Form for Terminal Illness from the Chief Medical Officer](#)

The proposal that Short-term Assistance should not be recoverable, except in cases of fraud or error, was also met with approval by 87% of respondents to the Disability Assistance consultation.<sup>5</sup> This will ensure that, should a re-determination or appeal be unsuccessful, there will not be any overpayments that individuals will need to worry about repaying. This will help to prevent a further reduction in household income should the re-determination or appeal be unsuccessful, something which was stressed by respondents.

This policy is closely aligned with the Healthier, Wealthier and Fairer Strategic Objectives, and contributes to the following National Outcomes:

- We respect, protect and fulfil human rights and live free from discrimination;
- We tackle poverty by sharing opportunities, wealth, and power more equally; and
- We live in communities that are inclusive, empowered, resilient and safe.

### 2.3 Objective

Scottish Adult Disability Living Allowance is awarded to any adult who was, immediately prior to having their award transferred, in receipt of Disability Living Allowance as delivered by the Department for Work and Pensions. It is intended to assist with the extra costs associated with having a long-term condition or disability which means that the individual requires support with their mobility or care needs. This includes physical or mental health conditions and disabilities.

This impact assessment is one of a package to accompany the regulations. The other impact assessments are: Equality Impact Assessment; Island Communities Impact Assessment; and the Fairer Scotland Duty Assessment.

### 2.4 Rationale for Government intervention

The assessment of the regulations and Scottish Adult Disability Living Allowance overall in relation to business and regulatory impact was undertaken using the five principles of Better Regulations,<sup>6</sup> as follows:

**Proportionate:** The Scottish Government will look to identify and minimise any indirect impacts, for example administrative burdens on local government, private businesses or third sector organisations as a result of the introduction of Scottish Adult Disability Living Allowance.

The equivalent United Kingdom Government benefit, Disability Living Allowance, has been reducing in caseload since it closed to new applications for adults in April 2013, and cases have been transferred to Personal Independence Payment or Adult Disability Payment. The transfer of cases to Scottish Adult Disability Living Allowance will further reduce the number of people entitled to Disability Living Allowance, and is expected to lead to a neutral impact in the longer term on the administrative burdens on other public agencies, private business and third sector organisations.

In the short term, there is likely to be additional work for public agencies and some third sector organisations as they make arrangements for their staff to incorporate knowledge of the replacement benefit into their current systems. Social Security Scotland has committed

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<sup>5</sup> Social Security – A Consultation on Disability Assistance in Scotland – The Scottish Government’s Response

<sup>6</sup> [Scottish Government Policy – Supporting Business: Business regulation](#)

to undertaking much of the administrative responsibility on behalf of people accessing disability assistance, including Scottish Adult Disability Living Allowance, and intends to utilise data sharing processes with relevant bodies. For example, this may occur where an individual requests Social Security Scotland to gather supporting information from a professional, where the individual does not already have this to hand.

It is anticipated that this will streamline the administrative burden of providing supporting information in circumstances where an individual does not have this to hand. Public agencies will instead be able to supply this information directly to Social Security Scotland through formal data sharing agreements and processes.

There is also expected to be a neutral impact on medical professionals as a result of the new definition of terminal illness. They will still be expected to use their clinical judgement to determine whether an individual has a terminal illness with the primary difference being that, instead of a DS1500 or SR1 form, they will be required to complete a 'Benefits Assistance Under Special Rules in Scotland' (BASRiS) form.

There may be some short-term impacts as medical professionals adjust to using the BASRiS form and taking a different approach but, overall, this should not place additional burdens on medical staff and, as the BASRiS form has been rolled out for Child Disability Payment and Adult Disability Payment, many medical professionals will already be familiar with this new process in Scotland.

**Consistent:** Scottish Adult Disability Living Allowance builds on the Social Security (Scotland) Act 2018 framework of a new system that is underpinned by dignity, fairness and respect. It will be delivered on an entitlement basis to eligible people. Decision-making will be person-centred and operational guidance for case managers within Social Security Scotland will be created in line with the rules within the regulations which will provide a framework for consistent decision making across all applications.

Where possible the Scottish Adult Disability Living Allowance Regulations and the associated policies have been aligned with those for other Scottish disability assistance to provide a consistent approach for clients, and services who will support them, to understand and navigate Scotland's social security system.

**Accountable:** All communications made relating to an individual's Scottish Adult Disability Living Allowance award will be provided in a communication method that meets their needs. All information used, and a rationale for any determination made will be included within communications to ensure that individuals are informed of how their determination of entitlement was made.

The Social Security Charter sets out in plain English what people are entitled to expect from the Scottish social security system, including how they should be treated. Complaints regarding Social Security Scotland can be directed to the Scottish Public Services Ombudsman.

We will ensure that people understand their right to have a re-determination by Social Security Scotland, and have a right of appeal to the Social Security Chamber of the First-tier Tribunal for Scotland if they are not satisfied with the outcome of a re-determination. This includes a right to appeal directly to the First-tier Tribunal if Social Security Scotland are unable to complete the re-determination process within the 56 day period.



Individuals will also be made aware of the existence of Short-term Assistance, which can be utilised where Social Security Scotland has made a determination to reduce or stop an on-going Scottish Government benefit and that determination is subject to a request for re-determination or an appeal. Short-term Assistance will ensure that individuals do not face a reduced income while undergoing a re-determination or appeal of an ongoing award. This will help to ensure that individuals are not discouraged from challenging a determination they do not agree with, or seeking administrative justice by having to manage, for a time, with a reduced income.

**Transparent:** A communications strategy will be developed for Scottish Adult Disability Living Allowance and the related case transfer process, as has been done for other forms of disability assistance. This will aim to ensure that individuals and their families or carers as well as the third sector, local government, health sector and advice providers are aware of this benefit and understand the eligibility criteria.

Where a determination is made that an individual is no longer entitled to receive Scottish Adult Disability Living Allowance due to a change in their condition, Social Security Scotland will provide a reason why, as set out in section 40 of the 2018 Act, to ensure that determinations are understood and that Social Security Scotland's processes are as transparent as possible.

We will publish guidance on Scottish Adult Disability Living Allowance in a way that takes account of differing communication needs, so that material is clear and transparent for those seeking further information. Social Security Scotland will create a bank of Scottish Adult Disability Living Allowance stakeholder resources and content for distribution to people in local communities. These resources will be produced in accessible formats that will be proactively supplied to relevant stakeholder organisations through the Stakeholder Engagement team.

The languages that Social Security Scotland proactively translate materials into 12 languages used in communities across Scotland. These include: British Sign Language, Urdu, Polish, Arabic, Ukrainian, Romanian, as well as braille and easy read formats. Materials in other languages are available on request<sup>7</sup>.

Social Security Scotland's communications team will work with community radio and foreign language press to provide messaging on Scottish Adult Disability Living Allowance to communities. In some circumstances, printed marketing materials may not be the right way to engage with communities, and where this is the case Social Security Scotland will provide an engagement approach through work carried out by the Stakeholder Engagement and Local Delivery teams.

The second Benefit Take-Up Strategy was published in October 2021 under the provision of the 2018 Act.<sup>8</sup> The strategy sets out Scottish Ministers' work supporting benefit take-up to date. It also introduced a series of new activities and initiatives aimed at increasing awareness of, and access to, Scottish Government benefits and supporting those who are eligible to apply.

These include new funding streams for income maximisation, establishing a Benefit Take-up Stakeholder Reference Group to provide advice and support in the implementation of this strategy and developing a Benefit Take-up Stakeholder Toolkit. Two roundtable events

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<sup>7</sup> [Social Security Scotland - Translation and interpretation services available for benefits information](#)

<sup>8</sup> [Social Security \(Scotland\) Act 2018: benefit take up strategy – October 2021](#)



were held in 2020 which were co-designed with key stakeholders to explore solutions to issues such as stigma, barriers to access, and the human rights-based approach. Increased benefit take-up is likely to have a positive impact on businesses and the economy because more individuals with a disability will have increased income, which may be used to purchase a range of goods and services from private or third sector organisations.

**Targeted only where needed:** Like Disability Living Allowance, Scottish Adult Disability Living Allowance is intended to help disabled people meet the additional costs of living with a disability or health condition.

It is only intended for those adults who are still receiving Disability Living Allowance administered by the Department for Work and Pensions on behalf of Scottish Ministers when it launched.

The rules for the benefit will be set out in the regulations, and any reviews – scheduled or unscheduled – will include a decision-making process which will consider eligibility for Scottish Adult Disability Living Allowance in a way that is consistent with the principles of dignity, fairness and respect.

Based on information from the Department for Work and Pensions' Stat-Xplore service, there were around 80,000 adults as of August 2023 with an entitlement to Disability Living Allowance in Scotland. Based on estimates provided by the Scottish Government's Communities Analysis Division, there will around 66,000 people in Scotland still with awards of Disability Living Allowance in scope for transfer by the time Scottish Adult Disability Living Allowance is launched in Spring 2025.<sup>9</sup>

It is expected that the introduction of Scottish Adult Disability Living Allowance and case transfer process could cause additional requests for information and support from existing advice services. However, it is anticipated that by introducing a system that has been designed in partnership with advice agencies, key stakeholders and individuals with experience of the current system, Social Security Scotland will be equipped to support individuals. This should lessen the impact on advice services in their provision of complex social security rights casework support for individuals.

### **3. Consultation**

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. There were more than 500 formal written responses in total with an even split between responses from organisations and individual respondent. Of these responses, more than 200 relating to questions on disability benefits were received. Respondents were also invited to comment on a partial Business and Regulatory Impact Assessment.

The independent analysis of the responses along with the Scottish Government response were published on 22 February 2017,<sup>10</sup> in addition to the Business and Regulatory Impact Assessment that was published to accompany the Social Security (Scotland) Bill.

The Scottish Government set up Social Security Experience Panels, with over 2,400 people across Scotland registered as panel members when the Panels opened in 2017.

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<sup>9</sup> [DWP Stat-Xplore](#)

<sup>10</sup> [Analysis of written responses to the consultation on social security in Scotland](#)

The Panels involved people with lived experience of the benefits that the Scottish Government has executive and legal competence for. In July 2019, recruitment to the Experience Panels was reopened. The Scottish Government have been working with relevant stakeholders to specifically identify disabled people from seldom heard groups for further engagement.

A specific survey regarding the case transfer process was sent out to Experience Panel members in February 2019. 559 responses were received and a summary of these responses was published<sup>11</sup>.

We have also undertaken engagement with stakeholders during the development of Scottish Adult Disability Living Allowance, through the [III Health and Disability Benefits Stakeholder Reference Group](#) as well as the independent [Disability and Carers Benefits Expert Advisory Group](#).

[The Disability and Carers Benefits Expert Advisory Group](#). was chaired by Dr Jim McCormick and comprised of individuals with significant practical experience of the social security system in the United Kingdom, from a range of professional backgrounds. It was independent of the Scottish Government. The Group's role was to advise Scottish Ministers on specific policy options for disability assistance and carers benefits due to be delivered by the Scottish Government. On 9 December 2022, the Group shared advice on Scottish Adult Disability Living Allowance, and Scottish Ministers responded on 22 March 2023.<sup>12</sup>

The views of people with lived experience have been captured through a range of ongoing user research and specific stakeholder engagement activities since 2022. This engagement has provided stakeholders the opportunity to feed into the development of Scottish Adult Disability Living Allowance, including the Equality Impact Assessment and the drafting of regulations. Such engagement has also provided the Scottish Government with the opportunity to engage specifically with particular groups that would be impacted by the proposed policy.

## 4. Options

### Option 1: Take no action

The transfer of powers to Scotland to make provision for and deliver disability benefits is set out in the Scotland Act 2016 and Social Security (Scotland) Act 2018. Therefore, not taking over powers from the Department for Work and Pensions was not considered to be a viable option.

The current agency agreement for the provision of Disability Living Allowance in Scotland is due to end at the end of March 2025. Extending the agency agreement significantly beyond this date is not considered to be a viable option as it is not in line with the agreed programme of devolution of social security between the UK and Scottish Governments.

**Option 2:** Transfer case management of people in Scotland's Disability Living Allowance awards, without introducing or moving them onto a new Scottish benefit.

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<sup>11</sup> [Social Security Experience Panels: designing the benefits case transfer process](#)

<sup>12</sup> [Disability and Carers Benefits Expert Advisory Group](#)

The Scottish Government could have decided to transfer management of clients' Disability Living Allowance awards without transferring clients onto a new Scottish benefit under the Social Security (Scotland) Act. However, this would have been inconsistent with the Scottish social security principles, as set out in the Social Security (Scotland) 2018 Act.

This approach would fail to utilise the opportunity to improve on the current administration of Disability Living Allowance, in line with the improvements introduced for other forms of Scottish disability assistance. It would also have required client advisers within Social Security Scotland to be trained in the rules and procedures for managing Disability Living Allowance awards, which differ from those for other forms of Scottish disability assistance. It was considered that this would require significant additional resource to develop bespoke training, maintain parallel guidance and notifications on cross-cutting issues, and limit the ability of Social Security Scotland to move staff within the organisation to meet and respond to demand.

**Option 3:** Transfer all clients awards to Adult Disability Payment.

This would be a significant departure from the Scottish Governments case transfer principles and the commitment made to the 65+ group that they could remain on Disability Living Allowance for as long as they remained eligible.

Given the eligibility criteria for Disability Living Allowance and Adult Disability Payment differ significantly, like-for-like case transfer would not be possible. This would require around 66,000 clients to have their award reviewed as part of a transfer process. This would be stressful for people, and may result in some losing or seeing a reduction in their awards. It would also require significant additional resources within Social Security Scotland to undertake such reviews.

**Option 4:** Introduce Scottish Adult Disability Living Allowance within the framework of the Social Security (Scotland) Act 2018, to facilitate a like for like transfer (recommended option).

By introducing Scottish Adult Disability Living Allowance as a form of disability assistance under the 2018 Act, it will be possible to:

- provide for like-for-like case transfer in line with the case transfer principles
- keep commitments to the 65+ cohort that they can remain on Disability Living Allowance;
- enable people to benefit from the wider improvements that have been introduced in the development of the Scottish social security system, such as, improved special rules for terminal illness and access to short-term assistance; and
- allow for the most effective use of available resources within Social Security Scotland.

A further key improvement for the Working Age group is that they will have the opportunity to remain on Scottish Adult Disability Living Allowance for as long as they are entitled, with the option to apply for Adult Disability Payment instead if they wish.

## **5. Sectors and Groups Affected, Benefits and Costs**

The impact of Scottish Adult Disability Living Allowance and the case transfer process is going to be dispersed across the country and sectors of the economy. The Scottish Fiscal

Commission's forecast for Scottish Adult Disability Living Allowance published in December 2023 estimated expenditure of £384 million in 2025-26 reducing to £272 million in 2028-29.

As noted previously, there may be some potential impacts on welfare advice and support services, however we plan to mitigate this through our ongoing engagement with carer stakeholder organisations, and by providing stakeholders with clear information and communications around any changes to support.

We are also committed to increasing the awareness and take-up of benefits and other sources of financial and practical help. We have allocated around £12.5 million to support provision of welfare, debt and income maximisation advice services for 2023-24.

Welfare Advice and Health Partnerships (WAHP) are an important example of such Scottish Government initiatives – placing welfare rights advisors in up to 180 GP surgeries in Scotland's most deprived areas, as well as in remote and rural locations. WAHP practices can refer patients directly to an in-house welfare rights officer for advice on increasing income, social security eligibility, debt resolution, housing, and employability issues as well as helping with representation at tribunals.

This vital support reaches people who have not engaged with traditional advice services, and ensures that Scottish households are supported to claim the benefits they are entitled to, challenge benefit decisions, maximise their incomes, resolve issues relating to employment, housing and much more.

An information sharing process will also be in place between the Scottish Government and external stakeholders – including the Department for Work and Pensions (DWP) the Ministry of Defence (MoD), His Majesty's Revenue and Customs (HMRC) and Local Authorities – to ensure all communications between departments is as seamless as possible and to support with the overall transition from Disability Living Allowance to Scottish Adult Disability Living Allowance in Scotland.

### **Department for Work and Pensions**

The Scottish Government and the DWP will share data with each other to support delivery of Scottish Adult Disability Living Allowance. This data sharing arrangement is required to assess eligibility for support, ensure accurate determination on cases are made and to ensure that clients' receipt of Scottish Adult Disability Living Allowance affects awards of benefits administered by DWP in the right way.

### **Ministry of Defence**

The Scottish Government and the MoD will share data with each other to support delivery of qualifying benefits. This data sharing arrangement is required to assess eligibility for support, and prevent double payment where clients are entitled to both Scottish Adult Disability Living Allowance and any 'overlapping benefits' administered on behalf of the MoD.

### **HMRC**

The Scottish Government will share award data with HMRC for HMRC to ensure that people can be treated appropriately in relation to eligibility for HMRC support such as Tax Credits and Tax-Free Childcare.

### **Local Authorities**

The Scottish Government will share award data with Local Authorities to ensure the client receives appropriate support from the local authority areas in which they reside. This includes council tax reduction and changes to housing benefits.

## **6. Regulatory and EU Alignment Impacts**

### **Intra-UK Trade**

Is this measure likely to impact on intra-UK trade? No.

### **International Trade**

Is this measure likely to impact on international trade and investment? No.

### **EU Alignment**

Is this measure likely to impact on the Scottish government's policy to maintain alignment with the EU? No.

## **7. Scottish Firms Impact Test**

Scottish businesses, including the third sector, responded to the 'A New Future for Social Security' consultation in mid-2016.<sup>13</sup> Responses were received from 14 private businesses and 5 business organisations all of which requested that their responses remain anonymous.<sup>14</sup>

Stakeholder events were run in tandem with the Consultation on Disability Assistance between 5 March and 28 May 2019 to obtain as wide a view as possible on the forthcoming delivery of disability benefits in Scotland. Views were received from many different types of interested stakeholder organisations, such as Child Poverty Action Group in Scotland, Citizens Advice Scotland, the Scottish Association for Mental Health (SAMH), Engender, CEMVO Scotland, Rights Advice Scotland, LEAD Scotland, MND Scotland, National Deaf Children's Society, Royal Blind and Scottish War Blinded, the National Association of Welfare Rights Advisers, Down's Syndrome Scotland, Royal College of Paediatrics and Child Health Scotland, One Parent Families Scotland, Children's Hospices Across Scotland (CHAS), The Poverty Alliance, Epilepsy Scotland and Glasgow Disability Alliance.

Following the Consultation on Disability Assistance, the Scottish Government also engaged with stakeholders specifically on Scottish Adult Disability Living Allowance. This involved engagement with the Ill Health and Disability Benefits Stakeholder Reference Group in April 2023, seeking advice from Disability and Carer Benefits Expert Advisory

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<sup>13</sup> [Social Security in Scotland: Consultation](#)

<sup>14</sup> [A New Future for Social Security: Scottish Government Response to the Consultation on Social Security in Scotland](#)

Group and responding to their recommendations in March 2023, as well as holding stakeholder engagement sessions.

It is expected that the introduction of these regulations could cause additional requests for information and support from existing advice and advocacy services. As a new benefit, this may result in additional pressure on advice agencies as they become familiar with it. The Scottish Government will continue to engage with the advice services sector as the programme to implement social security provision in Scotland progresses.

The Scottish Government does not believe that the introduction of Scottish Adult Disability Living Allowance will have an adverse impact on the competitiveness of Scottish companies or the third sector within Scotland, the United Kingdom or internationally, including Europe and the rest of the world. Additionally, the Scottish Government does not expect there to be any significant impact on the operational business of local authorities or health boards as a result of introducing Scottish Adult Disability Living Allowance.

There may be some impact on public sector agencies and third sector organisations operating in Scotland in relation to the way that Social Security Scotland delivers Scottish Government benefits compared to the status quo. These changes are unlikely to place significant demands on third sector organisations providing advice and support for people receiving or enquiring about social security payments and should not require a significant change to their operations.

The 2018 Act sets out a duty on Scottish Ministers to promote the take-up of Scottish Government benefits. As Scottish Adult Disability Living Allowance helps with the extra costs relating to an individual's care needs, an increase in benefit uptake is likely to have a positive impact on Scottish businesses and the economy. This is because individuals may be better able to remain in or take up employment and may use their payments to purchase a range of goods and services.

## **8. Competition Assessment**

The Scottish Government does not believe that Scottish Adult Disability Living Allowance will directly or indirectly limit the number of suppliers, nor will it limit the ability of suppliers to complete or reduce suppliers' incentives to compete vigorously.

Any procurement required to support the administration of Scottish Adult Disability Living Allowance will be subject to the Procurement Reform (Scotland) Act 2014 and The Public Contracts (Scotland) Regulations 2015, which together provide a national legislative framework for sustainable public procurement, which supports Scotland's economy growth through improved procurement practice.

- Will the measure directly or indirectly limit the number or range of suppliers? No.
- Will the measure limit the ability of suppliers to compete? No.
- Will the measure limit suppliers' incentives to compete vigorously? No.
- Will the measure limit the choices and information available to consumers? No.

## **9. Consumer Assessment**

The Scottish Government does not believe that Scottish Adult Disability Living Allowance will have an adverse impact on either eligible people or any other consumer either within Scotland, the UK or internationally, including Europe and the rest of the world. Scottish Adult Disability Living Allowance does not directly or indirectly limit the choices of consumers, nor does it limit the ability of consumers to compare the quality, availability or price of goods or services in the market. Furthermore, Scottish Adult Disability Living Allowance will not impact a consumer's ability to understand their rights.

- Does the policy affect the quality, availability or price of any goods or services in a market? No.
- Does the policy affect the essential services market, such as energy or water? No.
- Does the policy involve storage or increased use of consumer data? No.
- Does the policy increase opportunities for unscrupulous suppliers to target consumers? No.
- Does the policy impact the information available to consumers on either goods or services, or their rights in relation to these? No.
- Does the policy affect routes for consumers to seek advice or raise complaints on consumer issues? No.

## **10. Test Run of Business Forms**

As it is a closed benefit, Scottish Adult Disability Living Allowance will not require a new application form to be developed. However, new forms will be required for reviewing awards and to support reporting changes of circumstances. At present, such forms are under development, utilising user research from relevant stakeholder organisations and those with lived experience of the current social security system, but will largely be consistent with similar forms used for other Scottish benefits.

## **11. Digital Impact Test**

Scottish Ministers do not foresee that there will be any adverse impacts now, or in the future, of Scottish Adult Disability Living Allowance in relation to its delivery in the current and future digital context.

Scottish Adult Disability Living Allowance will be delivered alongside the Scottish Government's other disability benefits, Child Disability Payment, Adult Disability Payment and Pension Age Disability Payment, which already utilise digital processes for individuals where convenient, but does not exclude those that are unable to access these channels.

Individuals will be able to seek support through online webchat and digital guidance resources in relation to their Scottish Adult Disability Living Allowance award.

However, whilst it is recognised that technological advances do mean that social security provision across the United Kingdom has already largely moved to a digital offering, it is important that the Scottish Government continues to support those who do not have access to, or knowledge of, the necessary digital channels to apply for and manage their payments.



Therefore, individuals will be able to seek support over the phone through Social Security Scotland's freephone number, in-person through the Local Delivery team and through paper guidance resources. Social Security Scotland will continue to support individuals in an online and offline environment, ensuring that any future changes to Scottish Adult Disability Living Allowance are mindful of the needs of the individual first and foremost.

## **12. Legal Aid Impact Test**

Individuals applying for Scottish Adult Disability Living Allowance will have a right to request a re-determination of their entitlement by Social Security Scotland and subsequently will be able to appeal to the Social Security Chamber of the First-tier Tribunal for Scotland.

It is not envisaged that there will be any greater demands placed on the legal aid system as a result of implementing this change, principally because the caseload is unlikely to change significantly. Legal assistance is available to individuals and is subject to a financial eligibility test based on the 'disposable income' and 'disposable capital' of the individual.

It is a demand led budget and will continue to be available to individuals to appeal a determination of entitlement to the First-tier Tribunal, the Upper Tribunal, the Court of Session or the Supreme Court. The Scottish Government does not expect any new impact on the legal aid budget and expects legal assistance through the statutory scheme of Advice and Assistance, and Advice by Way of Representation will continue.

The Scottish Government expects that the re-determination process will ensure most determinations are made correctly. If nevertheless someone remains dissatisfied and wishes to appeal to the First-tier Tribunal, Social Security Scotland will do all it can to help an individual with an appeal. This includes providing information about the process, providing the right form to make an appeal and signposting to organisations who can support the individual throughout the process.

## **13. Enforcement, Sanctions and Monitoring**

Under section 97 of the 2018 Act, the Scottish Commission on Social Security (SCoSS) must prepare a report setting out its observations and recommendations in relation to the Scottish Government's proposals.

The Scottish Government will publish its formal response to this report when laying these regulations before the Scottish Parliament.

Ongoing stakeholder engagement with key organisations will provide the Scottish Government with an opportunity to monitor the impact of the changes made by these regulations.

The Communities Analysis Division within the Scottish Government will also run a comprehensive evaluation programme to consider the impact of the changes made by these regulations, with a full suite of equalities data for new applicants.

The 2018 Act 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 Scottish Ministers have done in that year to meet the expectations on them as set out in the Social Security Charter.

## **14. Implementation and Delivery Plan**

The Scottish Government intends to begin case transfer from Disability Living Allowance to Scottish Adult Disability Living Allowance with a national launch in 2025. Existing awards will transfer to Social Security Scotland without individuals having to make a new application. We aim to complete case transfer by the end of 2025.

A communications strategy will be developed in advance of the launch of Scottish Adult Disability Living Allowance. This will aim to ensure that individuals, their families and carers, the third sector, local government, health sector and advice providers are aware of the introduction of Scottish Adult Disability Living Allowance, and understand the eligibility criteria. A communications strategy will be developed so that it will be linked with wider Scottish Government initiatives for improving outcomes for disabled people and older people.

## **15. Post-implementation Review**

The Communities Analysis Division within the Scottish Government will run a comprehensive evaluation programme to consider the impact of the changes made by the introduction of Scottish disability benefits.

## **16. Summary and Recommendations**

In summary, the Scottish Government has identified evidence that the introduction of Scottish Adult Disability Living Allowance will constitute an investment into the Scottish economy. It is anticipated that these funds could support many to remain in or take up employment and will be used to pay for care, goods and services. Therefore businesses could benefit from the introduction of Scottish Adult Disability Living Allowance.

Any impact to businesses as a result of these regulations should be positive or neutral in the long term. The Scottish Government has worked closely with stakeholders to develop the policy and will continue to do so during the case transfer process and beyond.

## **17. Declaration and Publication**

I have read the Business and Regulatory Impact Assessment and I am satisfied that:

- (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and
- (b) that the benefits justify the costs.

I am satisfied that business impact has been assessed with the support of businesses in Scotland.

**Signed:**

**Date:**

**Minister's name:** Shirley-Ann Somerville

**Minister's title:** Cabinet Secretary for Social Justice

**Scottish Government contact:** Beth Stanners, Social Security Policy Division



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