

The logo for SPICe, consisting of the letters 'SPICe' in a white, sans-serif font on a dark purple background.The text 'The Information Centre' and 'An t-Ionad Fiosrachaidh' in white, sans-serif font on a dark purple background.

Social Justice and Social Security Committee

12th Meeting, 2022 (Session 6), Thursday, 31 March

Disability benefits case transfer

Introduction

This session will allow members to discuss arrangements for case transfer from DWP to Social Security Scotland for those on disability benefits.

The Committee will hear from:

- Ben Macpherson, Minister for Social Security and Local Government
- David Hilber, Team Leader, Case Transfer Policy, Scottish Government
- Kayleigh Blair, Solicitor, Scottish Government
- Hazel Stewart, Operations Lead, Social Security Scotland

Background

The Committee has approved regulations for transferring people from [DLA to CDP](#) and from [PIP to ADP](#). SCOSS has reported on further [draft regulations](#) which will enable transfer to ADP for working age people born after April 1948. SCoSS laid their report in Parliament on [23 March](#). The Scottish Government will respond once the regulations are laid.

Information for the public about transfer [from DLA](#) and [from PIP](#) is summarised on [mygov.scot](#).

The Committee has discussed case transfer during consideration of regulations on ADP and CDP. Issues about case transfer arose during the meetings of:

- [28 October 2021](#) during amendments to the regulations for CDP which included amendments to the rules on transferring from child DLA. The main focus of discussion was around young people moving from CDP to ADP.
- [27 January 2022](#), when the Committee approved regulations moving people from PIP to ADP. The main focus of the discussion around transfer was that changes to eligibility would need to wait until transfer was completed.

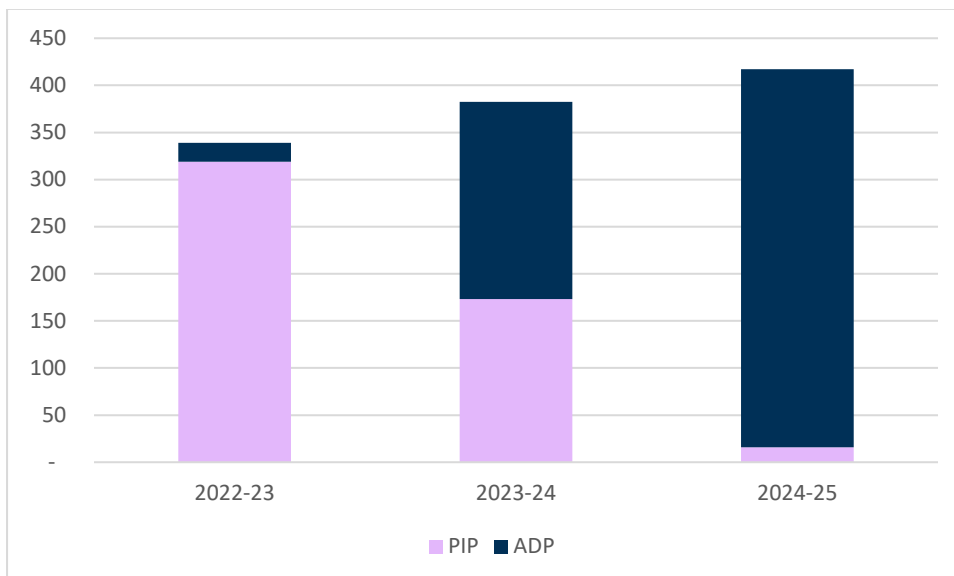
Timing

Transfer to CDP started in October 2021 is expected to be completed by spring 2023. (Ben Macpherson, [Committee Official Report, 20 January, col 11](#)).

Transfer to ADP will start when the scheme launches nationally in August and is due to complete in 2025. ([Committee Official Report, 27 January, col 24](#)).

Chart 1 below shows the Scottish Fiscal Commission's forecast for how PIP caseload will reduce and ADP will increase over the next three years, with most transfers happening in 2023-24 and 2024-25.

Chart 1: Forecast PIP and ADP caseloads (000's)



Source: Scottish Fiscal Commission, December 2021 forecasts table S5.1

Adults who get DLA who are under pension age will start to transfer to ADP from August if they have a change of circumstances or if they are terminally ill.

Adults on DLA who do not have a change of circumstances will be moved later although they can request to transfer.

People getting DLA who were born before April 1948 will be transferred later.

Numbers transferring

There are around 300,000 people to be transferred from PIP to ADP and around 44,000 people on DLA to be transferred to ADP.

There are also around 47,000 children and young people to transfer from DLA to CDP.

There are around 50,000 people in Scotland who were of pension age when PIP started. Specifically – those who were aged 65 or over on 8 April 2013. They haven't transferred to PIP and have stayed on DLA. They are currently aged 74 or older. They will also transfer to Social Security Scotland, but it's not yet clear what benefit they will receive.

Table 1: Scottish residents on PIP and DLA.

Current Benefit	Number of clients	Transferring to:
PIP	305,279	ADP
DLA	141,328	See below
Of which:		
DLA under 18	47,314	CDP
Adult DLA born after April 1948	c.44,000	ADP
DLA born before April 1948	c.50,000	To be confirmed

Source; StatXplore. Data for DLA is for August 2021. Data for PIP is for January 2022. [Children who turned 16 from September 2020 stayed on DLA and were not invited to claim PIP.](#)

Evaluation

An [evaluation strategy for disability benefits](#) was published in October 2021. Case transfer will be one of four proposed 'thematic evaluation projects.' (The others are decision making, terminal illness and eligibility for CDP). Evaluation activity will be phased.

"We will need to ensure that projects are planned and timetabled carefully to allow for relevant learning to be incorporated into the transfer process in the shorter term, but also allow for interaction with parallel projects that may have longer timescales, and for an overall picture of the full Case Transfer process to emerge."

The proposed timing for evaluating case transfer of CDP is from 2022 to early 2023. ADP case transfer will be evaluated starting in 2024.

The following five themes are suggested for discussion:

- Theme 1: Child DLA to CDP
- Theme 2: PIP to ADP
- Theme 3: DLA to ADP
- Theme 4: DLA born before 1948
- Theme 5: Joint working with DWP

Theme 1: Child DLA to CDP

Case transfers from child DLA started on 11 October 2021 ([Scottish Government CDP statistics](#)) and are due to complete by spring 2023. The priorities for transfer from child DLA are:

- Young people aged 15 ½ and over
- Those with a terminal illness

Detailed '[decision makers guidance](#)' has been published for case transfer from DLA to CDP. Key points include the following:

- Cases are selected for transfer. Clients can't ask to be transferred.
- Clients are sent a letter notifying they have been selected for transfer and that transfer will take place in the next 17 weeks. That deadline can be extended if there is 'good reason' to do so. Once Social Security Scotland has made its determination, clients are informed of how much their CDP will be and when it will start.
- DWP passes information to Social Security Scotland, and that information is the basis of Social Security Scotland's decision. All information from DWP is assumed to be accurate. Social Security Scotland also assumes the residence and presence conditions are met.
- The general rule is that, at the time they transfer, people will get the same amount of CDP as they got under DLA. In some cases they may get a higher amount and this can be backdated. For example, terminally ill clients on CDP are automatically entitled to the higher rate mobility component. This can be backdated to the later of: the clinical judgement of terminal illness, six months before case transfer or CDP pilot launch on 26 July 2021.
- The CDP payment may change if their previous DLA award is retroactively changed. For example, if a DLA appeal is decided after someone has already transferred to CDP then Social Security Scotland will decide whether the CDP award needs to change.

- All child DLA clients have a DWP appointee who will continue to act as the appointee for CDP until Social Security Scotland has established who will be paid CDP on the child's behalf. This could be an appointee or someone with parental rights and responsibilities.

The November 2021 [minutes of the Joint Ministerial Working Group](#) refer to the timetable and the complexities involved:

“The Minister for Social Security and Local Government [...] requested assurances from DWP that the managed transfer for the remaining Disability Living Allowance for Children caseload could begin in March 2022. Officials discussed the complexities involved with the managed transfer process and the timetable for the work.”

In January, Ben Macpherson told the Committee that:

“We are still working with the DWP to determine how we will prioritise the awards of clients who are under 15 and a half, but we will do so in a way that best minimises the biggest impacts for those who are staying within the DWP system” ([Committee OR 27 January 2022, col 30](#))

The evaluation strategy gave a provisional date for evaluating CPD case transfer of 2022 to 2023. ([see figure 2, Evaluation Strategy](#))

On Theme 1: Child DLA to CDP

- 1. What proportion of the child DLA caseload has been transferred so far to CDP? Will regular statistics be published to chart progress?**
- 2. Did transfer for under 15's start this month as planned and is 2023 still the target date for completion?**
- 3. What lessons have been learned so far about managing the transfer process? Eg. have there been any issues about receiving information from DWP, about the time taken to make decisions, about effective communication with clients etc?**
- 4. The November minutes of the Joint Ministerial Working Group referred to complexities in managing case transfer. Can you expand on what these are and how they are being dealt with?**
- 5. Can you provide more detail on how case transfer to CDP is being evaluated? Has evaluation activity started and when might initial findings be published?**

Theme 2: PIP to ADP

On 27 January the Committee [approved regulations for transferring people from PIP to ADP](#). Ben Macpherson told the Committee on 27 January that:

“The case transfer of approximately 300,000 disability benefit awards from the Department for Work and Pensions to Social Security Scotland is an unprecedented exercise both in scale and complexity.” ([Committee Official Report, 27 January, col 5](#))

The priorities for transferring clients from PIP to ADP are:

- clients due to have their PIP award reviewed will be prioritised. This is “to ensure as far as possible that no-one in Scotland will undergo a DWP reassessment for disability benefits after national launch.”
- if a client on PIP notifies a change of circumstance, this will trigger their move to ADP.

([letter dated 26 January 2022](#), Ben Macpherson)

The intention is to transfer clients so that they do not have to have a ‘face to face’ PIP assessment. David Hilber (Scottish Government) explained:

“When someone reports a change of circumstance to the DWP, their case will be selected for transfer. When somebody’s fixed-term award is about to end and they would have to make an advance claim for PIP to continue, they will be selected for transfer. Those who are scheduled to have a review of their PIP award that would likely require a face-to-face assessment will be prioritised for transfer” ([David Hilber OR 27 January col 23](#)).

The Scottish Government has estimated that initially there will be around 7,000 transfers each month.

“We will then look to ramp that up as we get the system under way and gain more experience and confidence with the processes, and as we ensure that everything is running properly for the safe and secure transfer.” ([Ben Macpherson, OR 27 January col 24](#)).

The transfer process

Transfer will start in August. Clients selected for transfer will be sent a notice which will state the period within which the transfer will happen.

With a couple of exceptions (see below) clients will be transferred to the same components and rates of ADP as they received in PIP. PIP will stop immediately before ADP starts. The decision must be taken by the date given in transfer notice,

but this date can be extended if there is good reason to do so and the client is informed of the delay. ([Schedule 2, Part 3 para 7 to 10](#))

Rate of benefit at the point of transfer

ADP and PIP have almost the same rules, and so people will be moved across to the same rate of ADP as they were getting in PIP. There are two exceptions:

- Terminal illness notified at time of transfer: a client will automatically be transferred to the highest levels of ADP
- 16 and 17 year olds in legal detention who are entitled to a mobility component will get a backdated award, reflecting the difference between ADP and PIP rules

Changes of circumstances around the time of transfer

Although there is a guarantee that the same rate will be paid at the point of transfer, it's possible that it could change shortly afterwards. This is because one of the triggers for case transfer is clients who have notified a change of circumstances to DWP. The client will transfer and Social Security Scotland will review the award as soon as reasonably practicable after transfer (ADP regulations [Schedule 2, para 12](#)).

On Theme 2: PIP to ADP

- 1. How much advance notice will you be able to give people of the exact date of their transfer to ADP?**
- 2. Other than the number of clients involved, in what ways does the project to transfer clients from PIP to ADP differ from the project to transfer clients from DLA to CDP?**
- 3. The initial 'triggers' for transfer are 'change of circumstances' or a client's PIP award is due to end. At what point will you move beyond that and start to transfer any remaining cases?**
- 4. When will detailed guidance on case transfer to ADP be published?**

Theme 3: DLA to ADP

From this summer, clients will start to move from DLA to ADP. At the point of transfer people will be paid the same amount of ADP as they got under DLA. However, their award will be reviewed within the first year against the ADP criteria. Following that review their award could increase or decrease or be lost altogether.

SCOSS has reported on [draft regulations](#). The regulations apply to adults born after April 1948. That is: people who were aged under 65 years on 8 April 2013 when PIP started and would have been due to move to PIP. The oldest people in this group will be 74 in April.

Complexity

SCOSS stress the complexity of these regulations and the importance of individuals understanding how migration applies to them, noting that:

“SCoSS members were appointed due to our expertise in social security – if we have found the issues raised by the draft Regulations challenging, this will be even more so for individuals.” (SCOSSs report p.28)

Natural and managed migration

People will be selected for transfer if they have a change or circumstances.

People will also be able to request to transfer to ADP. Some people will be better off on ADP than on DLA. The Scottish Government told SCOSS that they expect up to half of case transfers to be through voluntary moves. (SCOSS p.22)

Once this ‘natural migration’ is complete, there will still be people on DLA whose conditions haven’t changed and who haven’t requested a move. The Scottish Government has not yet announced its policy for the managed migration of this group of clients. SCOSS has recommended;

“The Scottish Government should publish its plans for managed migration from DLA to ADP (or to whatever devolved provision is made for older claimants) at the earliest opportunity.” (recommendation 1)

‘Like for Like’

There is a commitment to transfer people from DLA to ADP on a ‘like for like’ basis. The Cabinet Secretary wrote to the Committee in January saying:

“No one transferring from Disability Living Allowance (DLA) to Adult Disability Payment (ADP) will lose money. The same rate will be paid at the same time when the benefit is transferred from the Department for Work and Pensions (DWP) to Social Security Scotland. We will begin moving DLA cases from the DWP to Social Security Scotland in August once Adult Disability Payment is introduced. There will be no need to reapply for benefits and there will be no gaps in payment.” (Letter from Cabinet Secretary, dated 21 January 2022)

However, although they will transfer on a ‘like for like’ basis, when their award is reviewed the amount they get could change.

Initial Transfer: transitional lower rate ADP

As mentioned, people will be given a provisional award that is the same as their DLA award.

Because there are two ADP daily living rates but three DLA care rates, there will be a transitional lower rate of ADP daily living created so that people getting the lower rate care DLA can get the same amount in ADP pending the full review of their award under ADP criteria.

Review within a year

The regulations provide for a review within 12 months of being notified of the transfer to ADP. Different eligibility criteria in DLA compared to ADP (for example on mobility) will mean that some clients' awards will change – as they did for people moving from DLA to PIP. This impact might be minimised by a different approach to assessment and a fuller consideration of reliability and safety criteria, but there will still be some people who lose out. Clients will be entitled to a redetermination and appeal and will get Short Term Assistance during that period.

The SCOSS report discusses the need to support those individuals who lose out following the review:

“Ultimately, some transferring individuals will end up with a reduced or no ADP award following review. This will pose a new challenge to Social Security Scotland

[...]

individuals' inevitable disappointment could be all the greater because of the emphasis that has been placed on developing a 'better' approach to social security under devolution

[...]

availability of STA means the cliff-edge will be somewhat less stark than in the UK system, albeit that passported awards could still be immediately lost

[...]

a plan needs to be in place for dealing sensitively with these individuals and ensuring they can access support with budgeting in their changed circumstances and possibly with the emotional impact of the change”

(SCOSS report p.22)

The SCOSS report goes on to discuss possible options for transitional protection (p.23). SCOSS suggests that options might be:

- No reduction to awards until the independent review of ADP is completed
- For one year, provide a payment equal to 75% of the loss in benefit. (Northern Ireland put this in place for people moving from DLA to PIP)
- Continue to pay the previous level of award, but frozen in cash terms

On Theme 3: DLA to ADP

- 1. Some people will be better off on ADP than DLA. How will the Scottish Government ensure that people have enough information to decide whether to request a transfer to ADP?**

2. ADP awards will be reviewed within the first year following transfer. Has the Scottish Government made an estimate of the number of clients whose awards will reduce at that point?
3. What support will be available to clients whose awards are reduced?
4. What consideration has the Scottish Government given to providing transitional protection for those clients whose awards are reduced following review?
5. How will Social Security Scotland's approach to review be different to that of the DWP's reassessment of clients from DLA to PIP?
6. Will statistics be published showing how people's awards change following review?
7. What is the Scottish Government's policy for managed migration of clients who neither request a move to ADP or have a change of circumstances?

Theme 4: DLA cohort born before April 1948

People who reached pension age before 2013 (currently aged 74 or over) have not been transferred to PIP – they stayed on DLA.

As currently drafted, the regulations for DLA to ADP transfer do not include this group.¹

It is not yet entirely clear what the policy is for the c.50,000 people in Scotland who are in this group.

The SCOSS report refers to the creation of 'Scottish DLA' as being one option being considered (SCOSS report p.10).

On Theme 4: Born before April 1948.

1. Will people who get DLA and were born before April 1948 transfer to ADP? If not, what benefit will they get when they move to Social Security Scotland?
2. The SCOSS reports notes that one option being considered for this group of clients is 'Scottish DLA'. What are the pros and cons of this option?
3. If you cannot do so today, when do you plan to set out your policy for the transfer of this oldest group of DLA clients to Social Security Scotland?

¹ A relevant individual under draft regulation 3 are those aged between 16 and 65 in April 2013

Theme 5: Joint working with DWP

Successful completion of the case transfer process requires effective joint working between DWP and Social Security Scotland. On [10 March the Committee](#) heard from Chloe Smith, Minister for Disabled People Health and Work. She emphasised the joint commitment to safe and secure transfer:

“As you know, we have already commenced the transfer of some existing disability living allowance for children cases, and joint planning is under way on the transfer of the other existing case loads. Our core shared priority is to do that safely and securely without disruption to claimants. That is not without its challenges.” ([Committee Official Report, 10 March 2022, col 3](#)).

Case transfer requires client’s data to be moved from DWP to Social Security Scotland and requires DWP benefits to stop just before Social Security Scotland benefits ‘switch on’. The SCOSS report on DLA transfers noted that some client’s records are paper based.

“A further complicating factor is that many DLA clients’ records are still paper-based within the DWP system and these need to be used as a basis for confirming the eligibility of DLA recipients for ADP.” (SCOSS report, p.5)

Andrew Latto (DWP) described how moving between different systems creates complexity:

“I think that it is the fact that there are two different systems that is the complexity. There are different procurement cycles and we are in different cycles of technology.” ([Committee Official Report, 10 March 2022, col 22](#))

One theme 5: Joint working with DWP

- 1. What arrangements are in place to ensure a seamless transfer for the client from DWP to Social Security Scotland?**
- 2. How is responsibility for case transfer split between DWP, Programme and Social Security Scotland?**
- 3. Are there any joint governance arrangements between DWP and Social Security Scotland in relation to case transfer or does each organisation manage its side of the project separately?**
- 4. If a client has a problem – do they approach DWP or Social Security Scotland?**

Camilla Kidner,
SPICe Research,
24 March 2022

