

## Fairer Scotland Assessment

<p><b>Title of Policy, Strategy, Programme etc.</b></p>	<p>Disability Assistance for Children and Young People (Scotland) Regulations 2021</p>
<p><b>Summary of aims and expected outcomes of policy</b></p>	<p>The Social Security (Scotland) Act 2018<sup>1</sup> (the 2018 Act) sets out the broad framework for the delivery of devolved social security in Scotland. On 1 April 2020, the Scottish Ministers took executive and legal competence for disability benefits, including Disability Living Allowance for Children (DLAC), Attendance Allowance (AA) and Personal Independence Payment (PIP).</p> <p>These benefits will continue to be delivered during a transition period by the Department for Work and Pensions (DWP) under the terms of an Agency Agreement agreed with the Scottish Government, to ensure the safe and secure devolution of disability benefits.</p> <p>The Scottish Government intends to replace DLAC, PIP and AA with new forms of assistance under the 2018 Act. These new benefits will be delivered by Social Security Scotland on behalf of Scottish Ministers with most determinations carrying a right of appeal to the First-Tier Tribunal for Scotland’s Social Security Chamber.</p> <p>The Scottish Government intends to launch disability assistance for new applicants first. This includes individuals who are not in receipt of a UK or Scottish Government disability benefit.</p> <p>In addition to supporting new applications, Scottish Ministers will make provision for the transfer of responsibility for delivering disability benefits for children and young people under the age of 18 who receive DLAC in Scotland from the Department for Work and Pensions (DWP) on behalf of Scottish Ministers to Social Security Scotland, and for changing the disability benefits for these children and young people from DLAC to CDP. The cases and supporting information for these clients will transfer to Social Security Scotland once new applications functionality for the respective devolved benefit is in place. Over 700,000 existing clients will require to be transferred from the Department for Work and Pensions (DWP) to Social Security Scotland as devolved benefits ‘go live’.</p> <p>Based on estimates provided by the Scottish Government’s Communities Analysis Division, there are</p>

<sup>1</sup> <http://www.legislation.gov.uk/asp/2018/9/contents/enacted>

57,000 children and young people who will be transferred to Child Disability Payment from DLAC.

Scottish Ministers have set out a number of case transfer principles which we have used to guide the development of our approach to case transfer. Our commitment to equalities will run through all of these principles and also guides our overall approach. 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 to include checks at the point of transfer
- **No re-applications** - we will not require clients to re-apply for their benefit as part of the case transfer. We will work with DWP to move clients automatically to Social Security Scotland and the corresponding new Scottish benefit.
- **No face to face DWP re-assessments** - we will ensure that no-one will be subject to a face to face re-assessment by DWP when new applications for Adult Disability Payment open. DWP do not conduct face to face assessments for DLA Child renewals, so this is not a consideration for DLA Child case transfer.
- **Complete as soon as possible** – Whilst the previously set out timetable will no longer be possible due to the impacts of Covid-19, Scottish Ministers have been clear that they want to complete the transfer of cases as soon as is possible in a way that will 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.

The first form of disability assistance the Scottish Government will deliver is Child Disability Payment (CDP). This was formerly known as Disability Assistance for Children and Young People. It replaces DLAC for children and young people in Scotland between three months and 18 years of age. The changes we are implementing include:

- automatically extending awards of CDP from age 16 to 18 for clients entitled to CDP immediately before reaching age 16;
- a new definition of terminal illness that removes time limits and will more accurately reflect clinical best practice;
- continuing entitlement to the mobility component of CDP while a child or young person is in legal detention;
- revising the definition of a severe visual disability for the purposes of entitlement to the higher rate of the mobility component in line with national clinical best practice;
- making all awards of CDP rolling, subject to reviews, which take account of how likely it is for an individual's condition to change over time and continuing entitlement during the review process;
- extending the time an individual has to request a re-determination from 31 to 42 calendar days;
- Social Security Scotland will have 56 calendar days to complete a re-determination before the individual can appeal a determination to the First-Tier Tribunal for Scotland; and
- introducing Short-Term Assistance (STA) which will 'top up' an individual's ongoing award which has been reduced or stopped due to a new determination. This can be applied for during re-determinations or appeals.

The Disability Assistance for Children and Young People (Scotland) Regulations 2021 set out how CDP will be delivered and make provision for the transfer of responsibility for delivering disability benefits for children and young people under the age of 18 who receive DLAC in Scotland from the Department for Work and Pensions (DWP) on behalf of Scottish Ministers to Social Security Scotland, and for changing the disability benefits for these children and young people from DLAC to CDP.

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;
- We live in communities that are inclusive, empowered, resilient and safe; and

	<ul style="list-style-type: none"> <li>• We grow up loved, safe and respected so that we realise our full potential.</li> </ul>
<p><b>Summary of evidence</b></p>	<p>This Fairer Scotland Duty assessment has been developed drawing on a range of primary research, including 2 public consultations,<sup>23</sup> engagement with those with lived experience via focus groups, as well as ongoing consultation with stakeholders through our independent Disability and Carers Benefits Expert Advisory Group (DACBEAG)<sup>4</sup> and the Ill Health and Disability Benefits Stakeholder Reference Group.</p> <p>This work also drew upon interviews conducted via the Scottish Government’s Social Security Experience Panels.<sup>5</sup> The Panels involve people with lived experience of the benefits that are coming to Scotland, and have over 2,400 members drawn from people across Scotland. In 2019, a further round of recruitment took place, targeting specific groups identified as being underrepresented such as ethnic minorities and young people.</p> <p>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>6</sup>.</p> <p>Despite the continuing impact of coronavirus, work with Experience Panels has continued, with engagement around the following topics helping to inform our policy thinking on the following:</p> <ul style="list-style-type: none"> <li>• appointees;</li> <li>• change of circumstances;</li> <li>• decision-making and review an award;</li> <li>• disability benefit names; and</li> <li>• gathering supporting information.</li> </ul> <p><b>The link between poverty and disability</b></p> <p>Research has shown that poverty disproportionately affects those having a disability, with disabled people experiencing higher poverty rates than the rest of the</p>

<sup>2</sup> <http://www.gov.scot/Topics/People/fairerscotland/Social-Security/SG-Response>

<sup>3</sup> <https://www.gov.scot/publications/consultation-disability-assistance-scotland-analysis-responses/>

<sup>4</sup> <https://www.gov.scot/groups/disability-carers-benefits-expert-advisory-group/#:~:text=The%20Disability%20and%20Carers%20Benefits,on%20disability%20and%20carers%20benefits.>

<sup>5</sup> <https://www.gov.scot/collections/social-security-experience-panels-publications/>

<sup>6</sup> <https://www.gov.scot/publications/social-security-experience-panels-designing-case-transfer-process-main-report/>

	<p>population.<sup>7</sup> UK-wide, disabled people make up 28% of people in poverty and a further 20% of people in poverty live in a household with a disabled person. This statistic is largely replicated in Scotland where around 410,000 households in poverty (42% of all households in poverty) include a disabled person or are disabled themselves.<sup>8</sup></p> <p>Scotland-wide, there are higher levels of child material deprivation in households containing a disabled person, at 20% compared to households without a disabled person (at 8%). There are higher rates of food insecurity among disabled people (18%) compared to non-disabled people (5%). There is a higher likelihood of living in relative poverty after housing costs with a disabled person in the household (24% of families with a disabled person compared to 17% of families with no disabled members).</p> <p>Disability and unemployment / under-employment are positively correlated. 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.</p> <p>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>9</sup>. Child material deprivation in households containing a disabled person reaches 20% compared to 8% of households without a disabled person.</p> <p>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.</p> <p>Research conducted by the Papworth Trust<sup>10</sup> showed that the annual cost of bringing up a disabled child is three times greater than for a non-disabled child. 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>11</sup> Travel costs too,</p>
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<sup>7</sup> <https://www2.le.ac.uk/departments/law/research/cces/documents/the-energy-penalty-disability-and-fuel-poverty-pdf>

<sup>8</sup> [https://www.npi.org.uk/files/3414/7087/2429/Disability\\_and\\_poverty\\_MAIN\\_REPORT\\_FINAL.pdf](https://www.npi.org.uk/files/3414/7087/2429/Disability_and_poverty_MAIN_REPORT_FINAL.pdf)

<sup>9</sup> <https://www.gov.scot/publications/poverty-perspective-typology-poverty-scotland/pages/5/>

<sup>10</sup> <https://www2.le.ac.uk/departments/law/research/cces/documents/the-energy-penalty-disability-and-fuel-poverty-pdf>

<sup>11</sup> <https://www.jrf.org.uk/income-and-benefits/>

	<p>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).</p>
<p><b>Summary of assessment findings</b></p>	<p><u>Automatically extending CDP from age 16 to 18</u></p> <p>Ensuring that young people retain their entitlement to CDP for an additional two years will potentially mitigate the risk of increasing the existing levels of children living in poverty, and households with income inequality.</p> <p>We were told by parents in our focus groups that for some 16 year olds, the threat of an impending face-to-face assessment was so stressful that their children refused to attend, which meant a financial loss to the family income of the disability benefit as well as Carer's Allowance.</p> <p>We were told too that for many, a PIP award was perceived as being unattainable. Parents told us that throughout their child's childhood, they had chosen to cover the costs of their child's disability themselves, rather than complete a DLAC application. In hindsight, they felt that this decision had ultimately jeopardised their child's chances of a successful PIP application. As there was no record on the system of their child receiving a disability benefit, the implication was that the young person did not qualify for one.</p> <p>We heard too from parents, that their teenage children lacked medical supporting information of their diagnosis because their conditions, such as autism, are unchanging and do not typically require medical attention. This too made applying for PIP more difficult.</p> <p>In our Consultation on Disability Assistance, our proposal to extend CDP from age 16 to 18 was received positively by a majority of respondents (68%).<sup>12</sup></p> <p>By the end of October 2019<sup>13</sup> more than 1.4 million DLAC reassessment applications for PIP had been cleared in Great Britain with 39 per cent (556,000) leading to award increases, 14 per cent (200,000) remaining unchanged, and 47 per cent leading to a reduction or disallowance (603,000).</p>

<sup>12</sup> <https://www.gov.scot/publications/consultation-disability-assistance-scotland-analysis-responses/pages/4/>

<sup>13</sup> <https://www.gov.uk/government/statistics/personal-independence-payment-april-2013-to-october-2019>

	<p>Detailed research by the Scottish Government in 2017<sup>14</sup> showed that the biggest impact was felt by clients receiving the highest rate for both care and mobility components – between 2013 and 2016, 6,400 people lost financial support of up to £7,000 per year as a result of the transfer from DLAC to PIP.</p> <p>The data show that whilst 39% of young people in Scotland moving from DLA to PIP saw their entitlement increase<sup>15</sup>, 11% saw their entitlement decrease and 25% had their entitlement stopped following their PIP assessment. We also know that around 2% of young people in Scotland fail to attend an assessment and almost 7% fail to return the forms for PIP.</p> <p>This also has an indirect impact on the passported benefits and premiums that their families and carers may qualify for including:</p> <ul style="list-style-type: none"> <li>• Carers Allowance</li> <li>• Motability Scheme</li> <li>• Blue Badge</li> <li>• Disabled/Severely Disabled Child element of tax credits</li> <li>• Carer premium included in means-tested benefits such as ESA, IS, JSA etc.</li> </ul> <p>Whilst some carers may gain entitlement due to reassessment, many unpaid carers of young disabled people who lose eligibility for disability benefits as a result of reassessment from DLAC to PIP will no longer qualify for Carer's Allowance. This loss of income will be exacerbated if the disabled person who lost their entitlement and their carer live in the same household.</p> <p>Although CDP is not intended to be an income-replacement benefit, it is intended to provide support with helping to meet the extra costs associated with being disabled, such as paying for care and mobility needs.</p> <p>Entitlement to CDP will bring additional entitlement to passported benefits such as Child Winter Heating Assistance (CWhA), which will provide a £200 payment to help families of children and young people entitled to the highest rate of the care component by helping to meet the cost of heating the home during winter. Extending</p>
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<sup>14</sup> <https://www.gov.scot/publications/impact-uk-welfare-policy-disabled-people/pages/4/>

<sup>15</sup> DLA Stat-Xplore, accessed January 2021

	<p>entitlement of CDP from age 16 to 18 will allow individuals to be entitled to this assistance for an additional two years.</p> <p><u>Terminal Illness</u></p> <p>As of May 2020, there were 25 DLAC clients in Scotland under special rules for terminal illness (SRTI).<sup>16</sup></p> <p>The current definition used in the reserved social security system is that an individual "must have a progressive disease and their death as a consequence of that disease can be reasonably expected within six months".</p> <p>In Scotland, registered medical practitioners will use their clinical judgment to determine whether an individual is terminally ill for the purpose of accessing disability assistance under special rules.<sup>17</sup> The new definition specifies no time limit but relies on the clinical judgment of a medical professional to determine if an individual has 'a progressive disease that can reasonably be expected to cause the individual's death'.</p> <p>The Social Security (Scotland) Act 2018, as amended, makes further amendments to allow additional categories of healthcare professional certify that a client has a terminal illness for the purposes SRTI. This will mean that registered nurses will have the ability to make the decision, for the purposes of determining entitlement to disability assistance, whether an individual has a terminal illness.</p> <p>Our new definition will be able to take account of a wider range of conditions. Firstly, it will do this by removing the arbitrary six month time limit used in the current definition. This will make it easier for children and young people with conditions which are hard to predict length of life for to be entitled to CDP through SRTI.</p> <p>Allowing medical professionals to use their clinical judgement on a case by case basis will mean that a broader range of conditions will be able to be accounted for and, thus, allow more children and young people to be entitled to CDP through SRTI. This will also allow children and young people who need support to receive it more quickly.</p>
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<sup>16</sup> DWP stat X-plore

<sup>17</sup> <https://www.gov.scot/policies/social-security/terminal-illness/>



	<p>By changing our definition and making it easier for children and young people to be entitled to CDP through SRTI, we will help to mitigate the costs of caring for a child or young person with a terminal illness and, thus mitigate the risk of increasing the number of children in households living in poverty.</p> <p>For case transfer, whilst most of the eligibility requirements for DLAC and CDP are the same, there are some instances where someone receiving CDP will be eligible for a higher award than they would if they were receiving DLAC. We will be able to identify some, such as clients with a terminal illness who are only on low mobility awards for DLAC, as part of the case transfer process and these regulations provide for exceptions to the rule that the CDP determination on case transfer will be based on the equivalent rates and components for the client's DLAC award.</p> <p>These regulations do not make provision for a client to initiate case transfer. A client is still free to choose to end their DLAC award and to make a new application to CDP but we cannot guarantee there will be no break or delay in payment. We are, however, putting in place a process to prioritise the transfer of individuals who have been diagnosed with a terminal illness.</p> <p><u>Legal Detention and the Mobility Component of CDP</u></p> <p>The Scottish Government recognise that young people and children can spend longer periods than adults outwith detention in legal custody as part of the rehabilitation process and their sentences are generally far shorter on average than adult prisoners. To support the young person's transition back into a community setting, it is important that their family are able to meet their mobility needs and keep up contact while the child or young person is in legal custody.</p> <p>The rules for CDP provide that where a young person is in legal detention, the mobility component of this benefit will still be paid. This includes when a child or young person is taken into legal custody or sentenced. This aligns rules for legal detention with other forms of alternative accommodation, such as care homes or residential education institutions, ensuring consistency for young people and their families regardless of which environment a young person becomes resident in.</p>
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Severe visual disabilities and the higher rate mobility component

Under the rules applicable to DLAC, a child or young person who has been “certified blind or severely sight impaired” will qualify for the higher rate of the mobility component. As of May 2020, there are 107 children in Scotland<sup>18</sup> who are entitled to the higher rate of the mobility component under these rules.

From April 2018, children under 16 years of age are no longer registered as having a severe visual disability, but will instead be provided with support as part of a national care pathway, the Visual Impairment Network for Children and Young People (VINCYP). If a child has a severe visual disability, they will be provided with a letter from an ophthalmologist, orthoptist, optometrist or paediatrician confirming that this.

Unlike adults, the definition of ‘severe’ in children cannot always be measured in terms of the standard sight tests of visual acuity, either because they are too young, or because visual impairment is due to an abnormality of brain function so that they cannot ‘see’ due to profound difficulties with visual processing in the brain.

Where it is not appropriate to apply the adult visual acuity criteria, clinicians form a professional opinion on whether a child has equivalent visual function to someone meeting the adult criteria. Best practice is for a child to have a functional assessment by a team of professionals with expertise in visual impairment including a teacher and habilitation specialist.

For CDP, an individual will qualify for the higher rate of the mobility component if they have been diagnosed as having a severe visual disability fulfilling the VINCYP definition. This will help to ensure that children and young people in Scotland are entitled to assistance which will help to cover the costs of having a severe visual disability and ensuring that the proportion of households with children with disabilities in poverty does not increase.

Award Duration and reviews

We know that, for many people in the current system, the end of their award for disability benefits can be extremely stressful, particularly for individuals whose conditions are

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<sup>18</sup> DWP Stat-Xplore, May 2020 statistical release

	<p>unlikely to change over time and who are consequently subject to unnecessary reassessments of entitlement.<sup>19</sup></p> <p>Though such references were primarily made in relation to PIP, it is nevertheless applicable when considering the stress and anxiety that might arise from similar circumstances for children and young people.</p> <p>Making awards rolling, subject to light-touch reviews, will help to reduce stress and anxiety associated with coming to the end of an award for assistance by removing the perception of reaching a financial cliff edge.</p> <p>By continuing entitlement while a review is taking place, we will further help to mitigate fear of a financial cliff edge by ensuring that children and young people continue to receive the assistance they are entitled to until a Case Manager has made a new determination.</p> <p>The process for reviewing awards will be light-touch, providing a balance between respecting the needs of the individual and robust decision-making. Having a light-touch review process is more appropriate, particularly where a client's needs are unlikely to have changed significantly.</p> <p>This process still enables Social Security Scotland to undertake reviews as appropriate to determine continuing entitlement to CDP. This was agreed to by 66% of respondents to our Consultation on Disability Assistance<sup>20</sup> and Experience Panels.</p> <p>DACBEAG also recommended that, for individuals whose conditions are unlikely to change over time, there should be at least five years between reviews. 58% of Consultation respondents agreeing with this proposal.</p> <p>This will help to cut down on the number of unnecessary reviews children and young people will need to go through. In particular, for children with conditions that are unlikely to change, they may only need to have their award reviewed once before needing to apply for PIP or Adult Disability Payment (ADP) when it opens for applications.</p> <p>These provisions will help to ensure that disabled children and young people continue to access the assistance they</p>
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<sup>19</sup> <https://www.gov.scot/publications/social-security-experience-panels-award-duration-automatic-entitlement/pages/5/>

<sup>20</sup> <https://www.gov.scot/publications/consultation-disability-assistance-scotland-analysis-responses/pages/3/>

are entitled to and, consequently, helping to mitigate the risk of increasing the number of households with disabled children and young people in poverty.

#### Residence and Presence conditions

The Scottish Government has considered the implications of removing or adjusting the existing DWP residence and presence conditions. This is the type of policy change which could potentially have implications for individuals moving around the UK whilst in receipt of Scottish Disability Assistance. There may also be issues around eligibility for a range of payments, exemptions and entitlements associated with reserved UK benefits which remain within the control of DWP, eligibility for which currently depends on receipt of a UK disability benefit.

A majority of respondents to the consultation on Disability Assistance agreed with the proposed approach taken to residence and presence tests for CDP. However, we also received suggestions about how we could change the rules, including the removal or shortening of the 'past presence test'.

In developing the past presence test for CDP, we considered the responses to the consultation on disability assistance, the need to maintain a test that would retain access to reserved passported payments and entitlements, and the latest developments in Human Rights jurisprudence. The past presence test for CDP thus requires that all children over the age of 6 months should require 26 of the past 52 weeks' presence in the UK to establish eligibility for CDP, and that children under the age of 6 months should require presence amounting to 13 of the past 26 weeks to establish eligibility, in accordance with the most recent developments in case-law<sup>21</sup>

There are features built in to the test that mitigate the test for the youngest and most vulnerable:

- If a child becomes entitled to CDP at an age of 6 months or less, the shorter test will apply to them if they apply by the time they are 12 months;
- Individuals who are terminally ill do not need to satisfy the PPT;
- And in addition, CDP regulations provide that an advance award (with a delayed start date for payments) can be made where it appears that the

<sup>21</sup> TS (by TS) v SSWP (DLA); EK (by MK) v SSWP (DLA) [2020] UKUT 284 (AAC)

	<p>applicant will meet the necessary conditions within three months of their application.</p> <p>The past presence test will impact UK nationals returning to Scotland, and to third country nationals who have immigration status that allows them access to public funds. Scottish Government analysts highlighted significant challenges in relation to the data available on the size of these groups and interactions with social security benefits.</p> <p>From the analysis available, the relative change in size of cohorts eligible under adjusted past presence tests is expected to be small. Previous analysis suggests that the impact of removing the past presence test for DLAC in its entirety for UK Nationals moving to Scotland from outside the EEA might affect some 25 children.</p> <p>There would be a further cohort of children moving to Scotland from outside the European Economic Area (EEA) who could be eligible, if they hold a visa that allows them access to public funds. Data constraints make it very difficult to assess the number of such children who might be affected any further reduction or removal of the award.</p> <p><u>Re-determinations and appeals</u></p> <p>The Consultation on Disability Assistance<sup>22</sup> set out the rights already provided to individuals through the Social Security (Scotland) Act 2018. The consultation set out proposed timescales for both individuals to challenge the decision (31 calendar days) and Social Security Scotland to carry out a re-determination of the decision (40-60 working days).</p> <p>A majority of respondents (58%) agreed with the proposal that individuals should have 31 calendar days to request a re-determination from the date of Social Security Scotland's decision. However, some organisations held differing views.</p> <p>Some of the feedback provided suggested that accessing support or advice on challenging a decision can be time consuming and individuals may need longer than 31 days to do so. Respondents emphasised a need to consider all individual circumstances. We also noted concerns raised by a small number of respondents that a short timescale may deter individuals from challenging a decision.</p>
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<sup>22</sup> <https://www.gov.scot/publications/social-security-consultation-disability-assistance-scotland/>

	<p>We want to ensure that no one is disadvantaged by time limits for challenging a decision. The Scottish Government understands and acknowledges that individuals may require additional time to request a re-determination, for example, because they may require specialist advice.</p> <p>In response to the feedback in the consultation and our Experience Panels,<sup>23</sup> we have extended the time limit for requesting a re-determination to 42 calendar days. Key stakeholders have also supported this time limit.</p> <p>We proposed to give Social Security Scotland 40-60 days to reconsider a decision, as it may be necessary to collect supporting information on a child's behalf, and this information may take some time to obtain. A majority (60%) agreed with this proposed approach in the 2019 consultation. However, some stakeholders felt that this was an excessive period for someone to be left without clarity over their award level or eligibility.</p> <p>Given concerns raised in the consultation, and subsequent stakeholder engagement, we have determined that Social Security Scotland will have 56 calendar days (8 weeks) to undertake a re-determination before an individual can apply directly to the First-Tier Tribunal.</p> <p>This will be beneficial as it will ensure that children, young people and their families or carers will not be subject to a perpetual state of uncertainty wherein they do not know when Social Security Scotland will complete a re-determination.</p> <p>Similarly, by enabling individuals to appeal directly to the FtT should Social Security Scotland be unable to make a re-determination within the timescale, we will further reduce any uncertainty and, consequently, making people feel more confident in challenging a decision they do not agree with.</p> <p>If for any reason clients feel their CDP award is incorrect at the point of transfer, they will be able to request a re-determination and appeal any such re-determination in the normal way.</p> <p>Clients will continue to request a revision or supersession to their DLAC award through DWP, even after it has ended on transfer.</p>
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<sup>23</sup> <https://www.gov.scot/publications/social-security-experience-panels-complaints-re-determination-appeals/>

### Short-Term Assistance

STA is not available in the reserved social security system and is another example of where Scottish Ministers are removing barriers to challenging decisions in the Scottish social security system. The intention of STA is to ensure that an individual is not discouraged from challenging a decision or accessing administrative justice by having to manage, for a period, with a reduced income.

STA will be available until the First-tier Tribunal (FtT) for Scotland has made a determination, and is non-recoverable.

Where a person is eligible for STA, the value of STA will be the difference between the amount prior to the reduction and what it was reduced to and is non-recoverable.

During the Parliamentary passage of the Social Security (Scotland) Act 2018, the inclusion of STA was welcomed by stakeholders and supported by Parliament.

STA will help to ensuring that, if a mistake has been made by Social Security Scotland, disabled children and young people will continue to receive the payments they would have been entitled to should the mistake not have been made.

Engagement with our Experience Panels also found that participants believed that STA would make it more likely for people to challenge decisions by Social Security Scotland.<sup>24</sup> There was an emphasis on STA reducing financial pressure and giving people more confidence.

Additionally, as STA is a non-recoverable payment made by the Scottish Government, there will be no overpayments which individuals will need to worry about should their re-determination or appeal be unsuccessful. This will help to prevent a further reduction in household income in these circumstances, something which was stressed by respondents to our 2019 consultation<sup>25</sup> (87% agreed that STA should not be recoverable).

<sup>24</sup> <https://www.gov.scot/publications/social-security-experience-panels-short-term-assistance-visual-summary/>

<sup>25</sup> <https://www.gov.scot/publications/consultation-disability-assistance-scotland-analysis-responses/pages/3/>

	<p>There was disagreement from respondents to our consultation to the proposal that STA should be subject to deductions in respect of an overpayment agreement. Only 49% agreed with many stating that because disability assistance is essential to meeting the additional costs associated with having a disability, reducing this level of assistance could cause hardship.<sup>26</sup></p> <p>We have considered this carefully but have found that deductions to STA do not go against the policy intent, nor will they be detrimental. Where a deduction is being made, an individual will already have had dispute rights against the determination that put that deduction in place. Financial and other circumstances will have been considered as part of that process.</p> <p>From this, we anticipate that the introduction of STA will have a positive impact, helping to mitigate the risk of loss of household income and any subsequent child material deprivation as a result of increased numbers of households in poverty.</p>
<b>Sign off</b>	<p>Ann McVie Deputy Director Social Security Policy Division</p> <p style="text-align: right;">12 February 2021</p>

<sup>26</sup> <https://www.gov.scot/publications/consultation-disability-assistance-scotland-analysis-responses/pages/3/>