

**Cross-Border amendment and case transfer revocation
Impact Assessment considerations: The Social Security (Cross-border
Provision, Case Transfer and Miscellaneous Amendments) (Scotland)
Regulations 2025**

January 2025

Note on impact assessments approach

This note summarises the impact assessments for improvements to disability and carer benefits which the Scottish Government plans to implement through the draft Social Security (Cross-border Provision, Case Transfer and Miscellaneous Amendments) (Scotland) Regulations 2025. This note also covers the changes made to the Best Start Foods and Best Start Grant regulations.

We considered that rather than updating the range of impact assessments produced for the original regulations for the benefits covered by these amendment regulations, it would be more effective to focus on any additional or different impacts of the changes being made through these regulations. However, this note refers to and builds on the previous impact assessments, and going forward we will continue to consider equality impacts as a whole across the suite of disability and carer benefits available in Scotland.

The full range of impact assessments carried out alongside the development of Scottish benefits are available to read online, as well as the policy notes published alongside the earlier amendment regulations.

The impact assessments considered in this document are:

- Equality Impact Assessment (EQIA)
- Fairer Scotland Duty Assessment (FSDA)

In line with statutory obligations, the Children's Rights and Well-being Impact Assessment (CRWIA) for the draft regulations will be published separately. We will also publish our assessment that a full Island Communities Impact Assessment isn't necessary.

Policy summary

These regulations make several changes to the disability and carers benefits, Scottish Child Payment, Best Start Foods and Best Start Grants. The main aim of the regulations is to amend the Child Disability Payment (CDP), Adult Disability Payment (ADP), Pension Age Disability Payment (PADP) and Carer Support Payment (CSP) regulations so that people moving to Scotland from the rest of the UK who have been in receipt of a corresponding benefit from the Department for Work and Pensions (England and Wales) or the Department for Communities (Northern Ireland) will need to make a new application for a corresponding Social Security Scotland benefit and will have their award backdated to the day after their DWP/DfC benefit ends. For Scottish Adult Disability Living Allowance (Scottish Adult DLA), which does not have a route for new applications, cross border clients in

receipt of DLA must make a request for a determination of Scottish Adult DLA. Until these changes are made, people in this position have their DWP/DfC benefits transferred to Social Security Scotland benefit automatically after their move to Scotland. This is the same approach to individuals with a DWP-administered award living in Scotland, who have their award automatically transferred to the devolved Scottish equivalent, a process known as case transfer. This will no longer be possible to facilitate once the case transfer of benefits has completed, as the technical functionality to share information required to facilitate a like-for-like transfer between the DWP and Social Security Scotland will no longer be available.

Because the automated transfer process will no longer be available, these regulations will also revoke case transfer provisions for CDP, ADP, CSP, PADP and Scottish Adult DLA, once case transfer for each benefit is complete. As the case transfer for CDP is already completed, the new cross-border process will replace the current manual cross-border process. The case transfer provisions will still apply for anyone who has already started the case transfer journey when these regulations come into force, as will provisions which allow for post-transfer determinations on entitlement to be made. These regulations also include provisions which set out backdated payments to be made where someone should have had their case transferred but did not.

Suspension related amendments will also be made to CDP, ADP, PADP, Scottish Adult DLA and Scottish Child Payment (SCP) regulations. These will ensure that where a person has continually disengaged with requests for information from Social Security Scotland and is no longer entitled to assistance after suspension, their award can be ended on the date their award was suspended. This will apply to both scheduled reviews and determinations following a change of circumstances being reported, where an individual has continued to not engage with a request for information under section 54 of the Social Security (Scotland) Act 2018. This will mean that no payment is due to the individual for the period of suspension.

This instrument will also be used to make other miscellaneous amendments to residence and presence conditions for Best Start Foods (BSF) and Best Start Grant (BSG), update references to international social security coordination agreements for disability and carers benefits and to revoke provisions relating to the initial period of applications for disability and carers benefits.

Change 1: Amendments to add the Social Security Agreement between the United Kingdom and Gibraltar into the relevant benefit regulations.

We are amending CDP, ADP, PADP, CSP, Young Carer Grant (YCG) and Carer's Allowance Supplement (CAS) provisions to include references to the 2024 social security agreement between the UK and Gibraltar, to make clear that people covered by this agreement are covered by the regulations of these benefits.

Change 2: Amendments to the Best Start Foods and Best Start Grant regulations to make clear that people who have made a valid application to the EU Settlement Scheme and people who are joining family members are able to apply.

These amendments to the Best Start Foods (BSF) and Best Start Grant (BSG) make clear that applicants to the EU settlement scheme and joining family members in the first three months of residence are entitled to apply. This is currently provided for by direct effect of the UK-EU Withdrawal Agreement. We have also amended the BSG regulations to revoke references to redundant EU law.

Change 3: Revocation and savings of Case Transfer, regulations relating to individuals to whom a DWP or DfC benefit is still paid after the Coming into Force date, and amendments to the regulations relating to individuals to whom a DWP or DfC benefit was paid in another part of the UK before moving to Scotland.

These regulations will revoke case transfer provisions for CDP, ADP, PADP, CSP and Scottish Adult DLA as the functionality to transfer the required data between the DWP and Social Security Scotland will no longer be available. Anyone who has started the transfer process before these regulations come into force will be able to complete the process. Coming into force is staggered to take account of the different end dates of case transfer for each benefit.

We have saved several case transfer provisions that will need to be maintained, such as provisions for review determinations after transfer, or those that require a determination without application where the previous DWP-administered award is retroactively changed.

We have made every effort to ensure all relevant disability and carer benefit awards have been identified for case transfer. However, there are two scenarios that could result in someone's award not transferring during this process when it should have:

Incorrect data – We select cases for transfer based on the postcode data held by DWP. This may be incorrect or incomplete. After selecting the last known cases for each benefit, we put out communications urging people to get in touch with us if they have not yet heard from us. We cannot know how many people have been missed, but we expect numbers to be very low. We are not aware of anyone contacting us to date in response to our communications for DLA for children, PIP, or Carer's Allowance.

Retroactive entitlement – In order for an award to transfer, entitlement must be ongoing during the transfer period (i.e. between when the first and last cases being transferred). However, it is possible for awards to be retroactively started from a past period. For example, where a DWP LEAP exercise occurs or an outstanding appeal is decided. In these circumstances, had the original decision been correct, the person's award would have transferred. We expect this situation to be relatively rare.

As such, these amendments also cover the potential situation where an individual should have had their award transferred but did not. Because the required data sharing between the DWP and Social Security Scotland will no longer be available, anyone present in Scotland who remains or would become entitled to the equivalent DWP benefits after these regulations come into force date will be required to apply for the relevant Social Security Scotland benefit. If they do so within 26 weeks of the date Scottish Ministers become aware that the individual's award has not been

transferred to a Scottish benefit, their entitlement begins on the day after the day on which the individual's entitlement to their previous benefit, as administered by DWP, ceased.

We are also adding provision to allow anyone who is currently receiving a Scottish benefit because they applied to have their award backdated if we later discover their award should have transferred but did not.

Also as a result of the technical functionality to share required data between the DWP and Social Security Scotland ending, these amendments to ADP, CDP, CSP and PADP will remove the regulations requiring a determination without application when individuals move to Scotland from the rest of the UK, and they are paid a DWP/DfC benefit in the rest of the UK. Instead, we will require these individuals to make a new application. For Scottish Adult DLA, we will not require individuals to make a new application when they move to Scotland from the rest of the UK with an award of DLA, because Scottish Adult DLA does not have a full new application journey. Instead, individuals will request that Scottish Ministers make a determination of their entitlement to Scottish Adult DLA. This request must be made to Scottish Ministers in such form, and accompanied by such evidence, as the Scottish Ministers require. Scottish Ministers must then make a determination of an individual's entitlement to Scottish Adult DLA.

We have defined cross-border clients as individuals who submit their name and date of birth within 26 weeks of the date of move and complete the application within 32 (for CDP) or 34 weeks of the date of move (for other disability benefits). The additional 6 weeks for CDP and 8 weeks for other disability benefits reflect the time period allowed to complete part two of an application for disability benefits, and aligns with the time provided for new applications. For CSP, which does not have a 2 part process, cross-border clients are those who make a full application within 26 weeks of the date of the move. Clients in this position will be able to have their awards begin from the day after the end of entitlement date of their previous award. Those who don't meet that period will be treated in the same way as those making fresh applications. If an individual has a good reason why they provide their name and date of birth after the 26 week deadline, or complete their full application after the 32 or 34 week deadline (or after the 26 week application deadline for CSP), they will be treated as a cross border client having met the deadline so that they can have their award backdated to the day after their DWP/DfC end of entitlement date. For Scottish Adult DLA, those not covered by cross border provisions will be able to utilise existing provisions allowing individuals to request an award of Scottish Adult DLA within a year of their DLA award ending. People over state pension age who were in receipt of PIP or DLA will be able to access the mobility component for ADP or Scottish Adult DLA at the rate of the mobility component the person received in PIP or DLA at the time they moved to Scotland.

The aim of the proposed changes to the ADP, CDP, CSP, PADP and Scottish Adult DLA regulations for cross-border movers is to ensure that where applications or requests are made within certain timescales, the transition between DWP/DfC and Social Security Scotland benefits will be as smooth as possible. While people moving to Scotland from the rest of the UK will no longer be able to receive a determination without application, we want to ensure that people have their awards

set up accurately from the beginning, in the most straightforward way possible. We want to design the process to minimise the risk of gaps in payments for people, while also minimising the risk of continuing awards made in error by other bodies. We will do this by:

- Prioritising cross-border applications in a separate work queue for quicker processing
- Backdate clients' awards to the day after their previous awards ends as long as they submit their name and date of birth to Social Security Scotland within 26 weeks of their move (Part 1 application) and complete the full application (Part 2) either within 32 weeks for CDP or 34 weeks of that the date of move for other benefits, or submit a full application within 26 weeks of the move for CSP (which does not have a two part application process)
- Publicise the need to make a new application on mygov.scot and on other channels

Change 4: Carer Support Payment beginning of entitlement provisions.

The regulations include amendments to the CSP regulations on when entitlement to support can begin. Amendments provide for specific entitlement start dates for individuals applying following a move to Scotland, individuals living in Scotland who have been missed from the case transfer process, and those awarded Carer's Allowance (CA) retrospectively. This is intended to prevent any gaps in entitlement to support between CA and CSP. Amendments also allow for entitlement to support to begin on a date after the application is made, or the date entitlement would otherwise start, where the individual does not meet all of the eligibility criteria on that date, but will on a later date, within 13 weeks of this. This is intended to prevent the need for CSP to be denied and individuals to be required to apply again for support when it can be seen that they would become eligible within a short period after their application.

Change 5: Carer Support Payment temporary stops in entitlement provisions.

These regulations also amend the provision in CSP regulations regarding temporary stops in entitlement. Temporary stops in entitlement provisions allow for a CSP award which has ended to be reinstated without an application in certain circumstances where an individual becomes entitled again within 26 weeks. These regulations extend provisions so that when a CSP award has been ended because the person they are caring for is no longer getting a qualifying disability benefit following a move from the rest of the UK to Scotland, or due to having been missed in the case transfer process, it can be reinstated without an application when a qualifying disability benefit is then awarded, where this is within 26 weeks of the CSP award ending.

Change 6: Regulations relating to when an award can be ended relating to specific suspension scenarios.

Suspension related amendments will also be made to CDP, ADP, PADP, Scottish Adult DLA and Scottish Child Payment (SCP) regulations. These will ensure that

where a person has continually disengaged with requests for information from Social Security Scotland and is no longer entitled to assistance after suspension, their award can be ended on the date their award was suspended. This will apply to both scheduled reviews and determinations following a change of circumstances being reported, where an individual has continued to not engage with a request for information under section 54 of the Social Security (Scotland) Act 2018. This will mean that no payment is due to the individual for the period of suspension.

These regulations will also save existing provisions regarding when an award ends where an individual has already had their assistance suspended, prior to the legislation being amended, due to disengaging with requests for information from Social Security Scotland. This means where an individual's assistance was suspended before the updated regulations come into force, they will continue to be considered under the existing process when either their suspension is lifted or entitlement is ended.

In 2022, the Scottish Government completed an Equality Impact Assessment that detailed the impact of the suspensions process more generally when suspensions provisions were introduced for CDP and SCP¹.

Scope of this policy note on updates to impact assessments

This impact assessment considers updates to the data previously collected for the impact assessments for the principal regulations for Best Start Foods², Best Start Grants³, Child Disability Payment⁴, Adult Disability Payment⁵, Carer Support Payment⁶, Pension Age Disability Payment⁷ and Scottish Adult Disability Living Allowance⁸.

The Child Rights and Wellbeing Impact Assessment (CRWIA) for these regulations will be published separately alongside the draft amendment regulations.

Equality Impact Assessment (EQIA)

Background

This impact assessment update builds on the work already done in the published impact assessments. To consider these further updates we considered the information available about people who move to Scotland from the rest of the UK as well as the user research which has been carried out on a small number of CDP cross-border clients.

¹ https://www.legislation.gov.uk/ssi/2022/41/pdfs/ssieqia_20220041_en.pdf

² <https://www.legislation.gov.uk/ssi/2019/193/resources>

³ https://www.legislation.gov.uk/ssi/2018/370/pdfs/ssifia_20180370_en.pdf

⁴ <https://www.legislation.gov.uk/ssi/2021/174/resources>

⁵ <https://www.legislation.gov.uk/ssi/2022/54/resources>

⁶ <https://www.legislation.gov.uk/ssi/2023/302/resources>

⁷ <https://www.legislation.gov.uk/ssi/2024/166/resources>

⁸ <https://www.legislation.gov.uk/ssi/2025/3/resources>

In addition, data was gathered from a range of sources including those used in the initial EQIAs for the principal regulations. Sources included:

- Internal Migration in Scotland and the UK: Trends and Policy Lessons⁹
- The Scottish Health Survey 2022¹⁰
- User research carried out on CDP cross-border clients in Summer 2024
- Women's Budget Group¹¹
- National Records for Scotland information about migration flows from the rest of the UK to Scotland¹²

The following sections sets out the most recent findings of our equalities impact assessment of each change by protected characteristic.

Age

Change 1: Amendments to add the Social Security Agreement between the United Kingdom and Gibraltar into the relevant benefit regulations.

We have not identified any negative impacts from this change on those with this protected characteristic.

Change 2: Amendments to the Best Start Foods and Best Start Grant regulations to make clear that people who have made a valid application to the EU Settlement Scheme and people who are joining family members are able to apply.

The majority of applicants to the Best Start Grants and Best Start Foods will be in receipt of a DWP benefit and no information is gathered about their immigration status. A small number of young people aged under-18 are able to access these benefits without a qualifying benefit, in which case they will need to satisfy residence and presence criteria. This amendment to the BSF and BSG regulations clarifies that any young applicants who have recently arrived in the UK as a joining family member of someone with leave under EU Settlement Scheme, or anyone with a pending application to EUSS, will be able to apply. These people are already entitled to these benefits under the UK-EU Withdrawal Agreement, but these changes make it clear on the face of legislation. While we have not been able to identify any clients in this category and believe that we have correct processes in place so that no one would be incorrectly denied, we believe making this change will have a positive impact on young people accessing these benefits in the future by ensuring that no one is incorrectly denied.

Change 3: Revocation and savings of Case Transfer, regulations relating to individuals to whom a DWP or DfC benefit is still paid after the Coming into Force

⁹ <https://www.gov.scot/binaries/content/documents/govscot/publications/independent-report/2020/09/internal-migration-scotland-uk-trends-policy-lessons/documents/internal-migration-scotland-uk-trends-policy-lessons/internal-migration-scotland-uk-trends-policy-lessons/govscot%3Adocument/internal-migration-scotland-uk-trends-policy-lessons.pdf>

¹⁰ <https://www.gov.scot/publications/scottish-health-survey-2022-volume-1-main-report/>

¹¹ <https://www.wbg.org.uk/>

¹² <https://www.nrscotland.gov.uk/publications/migration-flows/>

date, and amendments to the regulations relating to individuals to whom a DWP or DfC benefit was paid in another part of the UK before moving to Scotland.

We expect the number of people who should have had their award transferred but did not to be very low, and no one age group is more likely than another to have had their case missed. We do not therefore believe the revocation of case transfer or the process for missed transfers will impact a particular age group.

Most people who arrive in Scotland are aged between 18 to 29. Migration from rUK has two peaks: ages 18-20 (related to student migration), and those in their late 20s and early 30s¹³. Only a small number of this group will also be in receipt of disability benefits – we expect that majority of cross-border clients will be between 16 and 66 years of age based on the estimated numbers of clients each month. We expect only a small minority to be children or above state pension age.

Clients who currently move to Scotland from the rest of the UK while in receipt of Child Disability Living Allowance (cDLA) go through a cross-border process where their CDP award is set manually set up based on information shared by the DWP. While the number of clients going through this process has been small since it was put in place in July 2023, the clients have reported experiencing issues with this process. They have experienced delays reporting the change of address to the DWP, and their CDP award being set up. While these clients will now need to make a new application instead of having their CDP award set up based on their previous award, they will benefit from a new clearer process which aims to avoid any gaps in payments.

Older people may face some specific challenges when they move to Scotland from the rest of the UK, particularly around digital accessibility when it comes to applying. There are existing measures in place to mitigate this, such as having different channels to apply – over the phone, online, paper, or with the support of Local Delivery. We are also supporting clients over the state pension age on PIP or DLA moving to Scotland by amending regulations to allow them to apply for ADP or request a new award of Scottish Adult DLA, and we've included provisions to allow those individuals to access the mobility component in their first determination, where they were receiving this at the time of the move, to protect their existing entitlements. This means that these individuals won't lose their mobility component just because they are over the state pension age at the time of their move.

Change 4: Carer Support Payment beginning of entitlement provisions.

Amendments are intended to prevent gaps in entitlement between Carer's Allowance and Carer Support Payment for cross-border clients and clients whose benefits did not transfer from Carer's Allowance. They are also intended to prevent the need for clients to re-apply for support where they are not eligible on application, or the date entitlement would otherwise begin, but will be on a future date within 13 weeks. The

¹³ <https://www.gov.scot/binaries/content/documents/govscot/publications/independent-report/2020/09/internal-migration-scotland-uk-trends-policy-lessons/documents/internal-migration-scotland-uk-trends-policy-lessons/internal-migration-scotland-uk-trends-policy-lessons/govscot%3Adocument/internal-migration-scotland-uk-trends-policy-lessons.pdf>

majority of current Carer's Allowance recipients are aged between 18 and 65. 79% of carers who have 'underlying entitlement' to the benefit (by which they have entitlement but do not receive payments due to receipt of another 'overlapping' benefit, such as State Pension) are aged over 65. We have not identified any negative impact of the advance application provisions on any particular group due to age.

Change 5: Carer Support Payment temporary stops in entitlement provisions.

Provisions will allow for an award of Carer Support Payment which has ended due to a gap in the qualifying disability benefits of the person they care which is the result of a move to Scotland or a missed case transfer, to be reinstated without an application. We have not identified any negative impact of these provisions on any particular group due to age.

Change 6: Regulations relating to when an award can be ended relating to specific suspension scenarios.

The ability to suspend an individual's assistance exists in disability benefits for all age groups in Scotland, as well as Scottish Child Payment. For disability benefits, there is an intersectional impact relating to age and disability which can increase client vulnerability.

The Scottish Government is ensuring that when the regulations are amended, safeguarding continues to be prioritised where Social Security Scotland has not had responses from an individual over a long period after requesting information from them. Safeguarding is of importance because Social Security Scotland does not have information to suggest why an individual might not be responding, and suspensions therefore provide a proportionate safeguard against payment of assistance to potentially vulnerable individuals where entitlement cannot be assured. This is of particular importance for individuals with vulnerabilities arising due to age.

These amendments relate only to scenarios where a client has disengaged when Social Security Scotland has requested information relating to entitlement, and continues to disengage throughout the suspension process. The Scottish Government believes that this will not negatively impact any particular age group.

There is no evidence to suggest that older or younger people would find it more difficult to provide information that is needed relating to entitlement. However, the Scottish Government recognises that older disabled people might be less likely to adopt digital methods of communication, or choose not to use these.

Therefore, when Social Security Scotland requests information relating to entitlement, and notifies a client that their award could be suspended, communications channels include sending letters by post and attempting to phone the client, where this is their communication preference. This ensures that people of all ages can remain informed of such requests and are provided opportunities to return requested information in a way that works for them best. This also ensures

vulnerable clients can tell Social Security Scotland about circumstances in their life that prevents them from sharing such information.

Disability

The Scottish Health Survey 2022 provides an estimate of the number of disabled people in Scotland. It states that 37% of people over the age of 16 have a limiting longstanding illness. However, 51% those aged 65-74 had such an illness, rising to 58% for people over 75¹⁴.

Change 1: Amendments to add the Social Security Agreement between the United Kingdom and Gibraltar into the relevant benefit regulations.

We have not identified any negative impacts from this change on those with this protected characteristic.

Change 2: Amendments to the Best Start Foods and Best Start Grant regulations to make clear that people who have made a valid application to the EU Settlement Scheme and people who are joining family members are able to apply.

We have not identified any negative impacts from this change on those with this protected characteristic.

Change 3: Revocation and savings of Case Transfer, regulations relating to individuals to whom a DWP or DfC benefit is still paid after the Coming into Force date, and amendments to the regulations relating to individuals to whom a DWP or DfC benefit was paid in another part of the UK before moving to Scotland.

The revocation of the case transfer provisions means those incorrectly missed will not be able to benefit from a transition to a like-for-like Scottish benefit award without making an application as transferred cases were. Those missed by the case transfer process will either be a disabled person or someone who cares for a disabled person. However, we expect the number of people in this situation to be incredibly low.

It is not possible for us to maintain the case transfer process as the technical functionality to automatically share information between the DWP and Social Security Scotland required to facilitate transfer will no longer be available and the DWP will not provide the necessary data manually. As such, these provisions aim to mitigate any negative impacts for missed cases as far as practicable. Once a missed case is identified, these provisions will allow for a continuous period of entitlement to ensure any financial impacts are minimised.

This policy will positively affect disabled people and their carers who are in receipt of a DWP/DfC benefit moving to Scotland from the rest of the UK. The policy ensures that they can apply and access disability and carers benefits as soon as they move and aims to ensure that they don't lose out financially because they have moved to

¹⁴ <https://scotland.shinyapps.io/sg-scottish-health-survey/>

another part of the UK. It is not possible to continue case transfer indefinitely for this cohort as DWP are not willing to share the data, therefore we have to make a change. If we don't make these changes, these clients would not receive any backdating and wouldn't be able to get their applications prioritised, leading to breaks in payment and potential financial hardship, so the changes we are making will be a better client journey than a regular new application process.

From user research, we are aware of the possible emotional, financial and practical stress of moving as a disabled person or carer. We are aware that the reasons for moving may be outside client control, and/or accompanied by other life changes (e.g. grief, relationship ending). They may also have subsequent moves soon after the first (e.g. living in temporary accommodation initially). To support clients with the possible upheaval caused by the move, under our proposals, in order to be treated as cross-border clients, people will have 26 weeks from the date of move to submit their name and date of birth ('relevant data') and 32/34 weeks from the date of move to submit their full application. For CSP, which does not have a two part application process, it is those who submit a full application within 26 weeks of the date of move. Clients in this position will be able to have their awards begin from the day after the end of entitlement date of their previous award and their applications will be prioritised in a separate work queue.

Change 4: Carer Support Payment beginning of entitlement provisions.

Amendments are intended to prevent gaps in entitlement between Carer's Allowance and Carer Support Payment for cross-border clients and clients whose benefits did not transfer from Carer's Allowance. They are also intended to prevent the need for clients to re-apply for support where they are not eligible on application, or the date entitlement would otherwise begin, but will be on a future date within 13 weeks. Statistics on current Carer's Allowance recipients who are disabled are not collected by DWP, however, benefit combination information and census data suggests a number of carers and Carer's Allowance recipients may be disabled¹⁵. The equality impact assessment for the principal Carer Support Payment found that disabled carers reported feeling overwhelmed by application process for benefits and may need additional support. We have not identified any negative impact of these advance application provisions on any particular group due to disability. However, it will be important to ensure any updated information provided on the changes is as clear and accessible as possible for disabled carers and those supporting them.

Change 5: Carer Support Payment temporary stops in entitlement provisions.

Provisions will allow for an award of Carer Support Payment which has ended due to a gap in the qualifying disability benefits of the person they care which is the result of a move to Scotland or a missed case transfer, to be reinstated without an application. We have not identified any negative impact of these provisions on any particular group due to disability.

¹⁵ https://www.legislation.gov.uk/ssi/2023/302/pdfs/ssieqia_20230302_en_001.pdf

Change 6: Regulations relating to when an award can be ended relating to specific suspension scenarios.

Suspending payments for failure to provide information is always a last resort. Individuals with certain disabilities could find it harder to provide information within the timescales given.

Safeguarding is prioritised where Social Security Scotland has not had responses from an individual over a long period after requesting information from them. Safeguarding is of importance because Social Security Scotland does not have information to suggest why an individual might not be responding, and suspensions therefore provide a proportionate safeguard against payment of assistance to potentially vulnerable individuals where entitlement cannot be assured.

The Scottish Government has safeguards in place so that additional time can be given to provide Social Security Scotland with information that has been requested. These safeguards exist within guidance to ensure that Social Security Scotland staff consider the specific circumstances of each client, therefore contributing to advancing equality and eliminating discrimination.

These legislative amendments do not change this process, meaning such safeguards will remain in place. The amendment means that where a person has continually disengaged with requests for information from Social Security Scotland and is found to no longer be entitled to assistance following a period of suspension, their award can be ended at the date of the suspension.

Although this may lead to a small reduction in the value of backdated entitlement in circumstances where an individual's award is ended, Social Security Scotland's existing processes and safeguards mean that disabled people are provided with various opportunities to re-engage with the process of returning requested information, both prior to the suspension and before an award is ended. Social Security Scotland also has robust processes to consider safeguarding and whether a suspension might cause financial hardship. Scottish Ministers trust what clients tell Social Security Scotland about their circumstances and do not suspend payments if it will cause financial hardship.

Therefore, the Scottish Government considers the impact on disabled people of this change to be justified and proportionate. As the suspensions process will remain the same, individuals are provided opportunities to re-engage with requests for information and are able to tell Social Security Scotland if they would face financial hardship where a suspension is being considered. The only change arising is to the date an individual's assistance will end following the period of suspension where this particular scenario arises.

Race including colour, nationality, ethnic or national origin

Social Security Scotland publish statistics on the diversity characteristics of people applying for the benefits they administer. These statistics allow Social Security Scotland to understand who is using their services and how their processes are working for different groups of people. According to the most recent publication

covering April 2023 to March 2024, Asian and Caribbean or Black applicants had higher denial rates for Social Security Scotland benefits compared to other ethnicity groups. User research has previously been undertaken by Social Security Scotland with clients whose first language is not English to support mitigating this barrier. User Researchers are also planning work to target Seldom Heard groups, including those who speak English as a second language. Using this information, we will be able to begin addressing these barriers and encourage eligible clients to apply for all of the support which they are entitled to.

Continuous monitoring of the impacts of our mitigations will be key to reducing barriers. We will continue to work with data specialists and relevant organisations representing this group to support this.

Change 1: Amendments to add the Social Security Agreement between the United Kingdom and Gibraltar into the relevant benefit regulations.

The social security agreement between the United Kingdom and Gibraltar is a post-Brexit agreement for exporting social security payments between the two territories. The Agreement ensures that individuals of any nationality who move between the UK and Gibraltar, and who are in scope of the Agreement will have certain social security benefits protected. Eligible individuals will have access to a range of social security benefits. It also ensures that cross-border workers and their employers are only liable to pay social security contributions in one state at a time. We have not identified any negative impact on anyone with a protected characteristic of race or nationality.

Change 2: Amendments to the Best Start Foods and Best Start Grant regulations to make clear that people who have made a valid application to the EU Settlement Scheme and people who are joining family members are able to apply.

The amendments to Best Start Foods and Best Start Grants residence and presence conditions will positively impact on EU nationals in the Protected Cohort and the members of their families. The changes we are making ensure that no one is incorrectly denied access to these benefits.

Change 3: Revocation and savings of Case Transfer, regulations relating to individuals to whom a DWP or DfC benefit is still paid after the Coming into Force date, and amendments to the regulations relating to individuals to whom a DWP or DfC benefit was paid in another part of the UK before moving to Scotland.

The amendments apply to all nationalities subject to case transfer or moving to Scotland from the rest of the UK, the vast majority of whom are or are expected to be British nationals. We have not identified any negative impacts on those with this protected characteristic however, we do not have any data on how many clients fall into this category.

We are aware that clients who don't have English as their first language may face difficulties in accessing or understanding their entitlements due to language or other communication barriers. Any cross-border or missed transfer client who needs additional support making an application can be signposted to an independent

advocacy service for support. Interpreter services and assistance to complete application forms will also be available.

Change 4: Carer Support Payment beginning of entitlement provisions.

Amendments are intended to prevent gaps in entitlement between Carer's Allowance and Carer Support Payment for cross-border clients and clients whose benefits did not transfer from Carer's Allowance. They are also intended to prevent the need for clients to re-apply for support where they are not eligible on application, or the date entitlement would otherwise begin, but will be on a future date within 13 weeks. DWP do not publish data on race for carers currently getting Carer's Allowance. However, the equality impact assessment carried out for Carer Support Payment found that some Black and Minority Ethnic carers may be less likely to identify as carers and face barriers to coming forward for and accessing support, including language barriers. It also found carers from Gypsy/Traveller communities may be less likely to identify as carers and access support¹⁶. We have not identified any negative impact of these advance application provisions on any particular group due to race. However, it will be important to ensure any updated information provided on the changes is communicated clearly to prevent any language barriers to understanding of the changes.

Change 5: Carer Support Payment temporary stops in entitlement provisions.

Provisions will allow for an award of Carer Support Payment which has ended due to a gap in the qualifying disability benefits of the person they care which is the result of a move to Scotland or a missed case transfer, to be reinstated without an application. We have not identified any negative impact of these provisions on any particular group due to race.

Change 6: Regulations relating to when an award can be ended relating to specific suspension scenarios.

The Scottish Government has not identified any negative impacts on the basis of this protected characteristic, as the existing safeguards of the suspensions process will continue to be prioritised under the amended regulations. The only change arising is to the date an individual's assistance will end following the period of suspension where this particular scenario arises.

Before an award is suspended or entitlement ended, Social Security Scotland makes several attempts to contact clients and takes into consideration client vulnerabilities or safeguarding concerns. Social Security Scotland offers communication support where clients have a language barrier. This includes the use of translator services during telephone calls and translation of letters. Providing these services helps to advance equality of opportunity to provide required information to Social Security Scotland when there may be a language barrier.

¹⁶ https://www.legislation.gov.uk/ssi/2023/302/pdfs/ssieqia_20230302_en_001.pdf

Sex

Change 1: Amendments to add the Social Security Agreement between the United Kingdom and Gibraltar into the relevant benefit regulations.

We have not identified any negative impacts from this change on those with this protected characteristic.

Change 2: Amendments to the Best Start Foods and Best Start Grant regulations to make clear that people who have made a valid application to the EU Settlement Scheme and people who are joining family members are able to apply.

Whoever has responsibility for the child is able to receive the BSF and BSG payments on behalf of the child. Whilst a high proportion of those will likely be women, men will also be able to claim BSF for the child that they have responsibility for. We have not identified any negative impact of these provisions on any particular group due to sex.

Change 3: Revocation and savings of Case Transfer, regulations relating to individuals to whom a DWP or DfC benefit is still paid after the Coming into Force date, and amendments to the regulations relating to individuals to whom a DWP or DfC benefit was paid in another part of the UK before moving to Scotland.

We expect that cross-border clients and those who should have their award transferred are more likely to be women than men. A report by the Women's Budget Group has found that, overall, women are twice as likely to rely on social security as men. Women also move in slightly higher numbers than men - in 2022, 26,849 women moved to Scotland from the rest of the UK. In the same year, 24,327 men moved¹⁷. We have not identified any negative impact of these provisions on any particular group due to sex.

Change 4: Carer Support Payment beginning of entitlement provisions.

Amendments are intended to prevent gaps in entitlement between Carer's Allowance and Carer Support Payment for cross-border clients and clients whose benefits did not transfer from Carer's Allowance. They are also intended to prevent the need for clients to re-apply for support where they are not eligible on application, or the date entitlement would otherwise begin, but will be on a future date within 13 weeks. Currently 69% of Carer's Allowance recipients in Scotland are women¹⁸ and we expect the majority of Carer Support Payment applicants and recipients to be women. We have not identified any negative impact of these provisions on any particular group due to sex.

Change 5: Carer Support Payment temporary stops in entitlement provisions.

¹⁷ <https://www.nrscotland.gov.uk/publications/migration-flows/>

¹⁸ <https://www.socialsecurity.gov.scot/reporting/publications/summary-statistics-for-carers-allowance-supplement-to-october-eligibility-date-2024>

Provisions will allow for an award of Carer Support Payment which has ended due to a gap in the qualifying disability benefits of the person they care which is the result of a move to Scotland or a missed case transfer, to be reinstated without an application. We have not identified any negative impact of these provisions on any particular group due to sex.

Change 6: Regulations relating to when an award can be ended relating to specific suspension scenarios.

There are several types of suspension that can be made, including in the context of financial abuse which may impact women more than men. However, these amendments relate only to when an award ends following disengagement throughout requests for information relating to entitlement and the following suspension process. The only change arising is to the date an individual's assistance will end following the period of suspension where this particular scenario arises.

Suspension of an award is always a last resort and is not used punitively. There are a number of additional checks which take place on the day an award is suspended, including considering the risk of financial hardship and whether there are safeguarding concerns.

The Scottish Government is ensuring that when the regulations are amended, safeguarding continues to be prioritised where Social Security Scotland has not had engagement from an individual for a prolonged period after requesting information relating to entitlement. Safeguarding is of importance because Social Security Scotland does not have information to suggest why an individual might have disengaged, and suspensions therefore provide a proportionate safeguard against payment of assistance to potentially vulnerable individuals where entitlement cannot be assured.

Therefore, the Scottish Government has not identified any negative impacts on the basis of this protected characteristic as the existing safeguards of the suspensions process will continue to be prioritised under the amended regulations.

Sexual orientation & Gender Reassignment

We have not identified any negative impacts on those with this protected characteristic, however, we do not have any data on how many clients fall into this category.

Religion or belief

We have not identified any negative impacts on those with this protected characteristic, however, we do not have any data on how many clients fall into this category.

Maternity and pregnancy

We have not identified any negative impacts on those with this protected characteristic, however, we do not have any data on how many clients fall into this category.

Marriage and Civil partnership

Not required to assess against the protected characteristic of Marriage and Civil Partnership as the policy doesn't relate to work.

Fairer Scotland Duty Impact Assessment considerations

Change 1: Amendments to add the Social Security Agreement between the United Kingdom and Gibraltar into the relevant benefit regulations.

We haven't identified any impacts of this change.

Change 2: Amendments to the Best Start Foods and Best Start Grant regulations to make clear that people who have made a valid application to the EU Settlement Scheme and people who are joining family members are able to apply.

We haven't identified any impacts of this change.

Change 3: Revocation and savings of Case Transfer, regulations relating to individuals to whom a DWP or DfC benefit is still paid after the Coming into Force date, and amendments to the regulations relating to individuals to whom a DWP or DfC benefit was paid in another part of the UK before moving to Scotland.

Revocation of Case Transfer

By the end of 2025 we expect to have completed transferring over 700,000 disability and carer benefit awards from the Department for Work and Pensions (DWP) to Social Security Scotland. People whose awards are transferred do not need to apply and receive a like-for-like award with no break in entitlement.

Our case transfer process relies on postcode data held on DWP systems to identify awards that should be transferred to Scotland. This means that where this data is incorrect or incomplete, it is possible cases that should have transferred are missed. Similarly a person must be entitled to an award to have it transferred. This means that where a person's award was incorrectly denied, but entitlement is later retroactively established, people who would have otherwise had their award transferred will not have.

By definition we cannot know how many cases have been missed, but we expect the numbers to be very low. We have already completed selecting DLA for children, Personal Independence Payment, and Carer's Allowance awards for transfer and have asked anyone still receiving those benefits in Scotland via social media, our website, and stakeholders to contact us immediately. We are not aware of anyone contacting us to date.

Where someone is identified as falling into one of these groups, our preferred approach would be to simply transfer their award. This way they would have the same experience as someone who had their case transferred. However, the case transfer process requires DWP to provide the data associated with the client's existing award so Social Security Scotland can make a like-for-like award without an application. Considering the very small number of people that may fall into these groups, maintaining the automated transfer processes would not be proportionate and the DWP will not facilitate a manual data sharing process. We must therefore gather the necessary data from the client themselves via an application. This also means that a like-for-like award cannot be established and that we cannot guarantee no break in payment, as we may not be able to make a decision on their application before their DWP administered award ends.

To mitigate this, we are introducing backdating to establish continuous entitlement. Where someone informs us that they have been missed for transfer, and they complete an application for the equivalent Scottish benefit within 26 weeks of informing us, we will backdate their Scottish award to the date their DWP administered award ended. A similar rule will apply where someone has since made a successful application to a Scottish benefit and later learns their previous award should have transferred. This means that ultimately people will receive the correct award for the time they would have had their case been correctly transferred.

Migration from the rest of the UK to Scotland

Average net migration from other parts of the UK has been fairly stable over the last decade, averaging +9,000 people. It was higher in 2021-22, at +12,500 people. The areas with the largest number of people moving from the rest of the UK were City of Edinburgh and the City of Glasgow. Only a small number of this group will also be in receipt of disability benefits – we expect about 260 cross-border clients each month.

The risks of migration are generally assumed to increase as the distance rises, because of the higher costs of moving and cultural adjustment. However, internal migrants within the UK still face barriers linked to finding employment, affordable housing, schooling, and adjusting to different socio-cultural conditions¹⁹.

Most people who arrive in Scotland are aged 18 to 29. Migration from rUK has two peaks: ages 18-20 (related to student migration), and those in their late 20s and early 30s. Migration is heavily concentrated among the young and to some extent, among the better educated. In combination, this results in a very significant movement of young people to Scotland's major cities, which offer a wide range of higher education opportunities.

Understanding cross-border clients' context

¹⁹ <https://www.gov.scot/binaries/content/documents/govscot/publications/independent-report/2020/09/internal-migration-scotland-uk-trends-policy-lessons/documents/internal-migration-scotland-uk-trends-policy-lessons/internal-migration-scotland-uk-trends-policy-lessons/govscot%3Adocument/internal-migration-scotland-uk-trends-policy-lessons.pdf>

We expect about 260 cross-border clients per month. These clients may have limited support, and limited knowledge of where to seek support in Scotland. They may have limited routes of contacting Social Security Scotland (e.g. no internet connection enabled) and difficulties gathering identity documents and supporting information during/after moving. Other simultaneous transitions may be occurring e.g. change of personal circumstances, age related change (e.g. moving to pension age). As a result, they may not prioritise reporting a change of address to the DWP/DfC and making a new application for a Social Security Scotland benefit. From the data on clients receiving Child Disability Payment and making a cross border move between 07/07/23 and 08/05/24, we found that:

- 25% of clients reported within 2 weeks after the move;
- 37% of clients reported between 2 and 6 weeks after the move;
- 18% reported between 6 and 13 weeks after the move; and
- 20% reported after 13 weeks after the move.

Of those clients reporting a change of address later than 13 weeks from the date of their move, 53% reported by 18 weeks.

Engaging with Social Security Scotland

Clients moving to Scotland from the rest of the UK may have limited awareness of Scottish social security. The need to transition to a new service and applying for a different benefit may have come as a shock. This may lead to frustration and anxiety about having to make a new application as they may be unfamiliar with the language and processes in Social Security Scotland in comparison to the DWP. Clients may also not understand that there may be differences in the rules for DWP and SSS benefits, e.g. for terminal illness, passporting and they may be confused about which agency (DWP/SSS) to contact during the transition. Clients may have had challenging experiences with services or benefits applications in the past that affect how they feel about engaging with SSS. There may be misinterpretation or confusion in key areas e.g. assumptions about automatic 'transfer' to Social Security Scotland.

User research found that the supportive tone of Social Security Scotland was appreciated by clients, however this led some participants to not appreciate that there was a sense of urgency to ensure they had a new award in place by the end of DWP award.

Areas of misunderstanding were also identified in user research – participants assumed a level of 'transfer' would happen between different agencies e.g. data sharing between DWP and Social Security Scotland about them and their condition(s).

To avoid any misunderstandings and to make clear that it's in clients' best interest to make a new application as quickly as possible, the information for clients will be clear about the limits of the cross-border process to manage client expectations.

As the cross-border process relies on the client contacting Social Security Scotland, there is a risk that they will experience a drop in income after their DWP benefit ends and before their Scottish benefit starts if they are not aware that they need to make a

new application. If someone makes a new application after the 13-week run on of their previous benefit has ended, but before 26 weeks from the date of their move to Scotland, they will experience a gap in payments while their application to Social Security Scotland is processed. They will get a backdated payment once their award is in payment. If someone makes a new application more than 26 weeks after their move, they won't be able to get their payments backdated and will experience a break in entitlement. We will take steps to mitigate this as much as possible through sharing communications via different channels making it clear that a new application will be needed. We have engaged with third sector organisations, housing associations and plan to raise awareness outside Scotland. We will also prioritise the processing of cross-border applications aiming to avoid gaps in payments. We will also backdate awards to the day after the end of their DWP/DfC award for eligible cross-border clients.

Alternative approaches were considered, such as setting up the clients' awards to mirror their previous entitlement, but ultimately these were not possible to deliver because the DWP will not commit to ongoing dependency to share information with the Scottish Government beyond the end of the current devolution programme. In order to gather the necessary information to set up clients' awards correctly, a new application will now be required.

Change 4: Carer Support Payment beginning of entitlement provisions.

As highlighted in Carers UK's State of Caring Report 2023²⁰, DWP's Family Resources Survey highlighted that 1 in 5 households in receipt of Carer's Allowance in the UK reported living in food insecurity – nearly three times the rate of the general population. The report also noted that 62% of carers agreed that the rising cost of living has made it increasingly difficult for carers to manage their finances. The WPI Economics report with Carers UK²¹ found that the poverty rate for unpaid carers was 50% higher than for those who did not provide care.

Amendments are intended to prevent gaps in entitlement between Carer's Allowance and Carer Support Payment for cross-border clients and clients whose benefits did not transfer from Carer's Allowance. They are also intended to prevent the need for clients to re-apply for support where they are not eligible on application, or the date entitlement would otherwise begin, but will be on a future date within 13 weeks. This may allow carers to receive a Carer Support Payment award and payments sooner, something which may be particularly important for those on lower incomes.

Change 5: Carer Support Payment temporary stops in entitlement provisions.

Provisions will allow for an award of Carer Support Payment which has ended due to a gap in the qualifying disability benefits of the person they care which is the result of a move to Scotland or a missed case transfer, to be reinstated without an application. These should allow carers to begin receiving support again sooner, and

²⁰ <https://www.carersuk.org/reports/state-of-caring-survey-2023-the-impact-of-caring-on-finances/>

²¹ <https://wpieconomics.com/publications/poverty-and-financial-hardship-of-unpaid-carers-in-the-uk/>

with less administrative burden, after a gap in entitlement, something which may be particularly important for those on lower incomes.

Change 6: Regulations relating to when an award can be ended relating to specific suspension scenarios.

During 2020, the Scottish Government undertook an informal, managed consultation with stakeholders through the Ill Health and Disability Benefits Stakeholder Reference Group (IHDBSRG) on introducing suspensions provisions. This engagement informed the high-level policy principles for suspensions.

On 25 June 2020, a group of stakeholders wrote to the Cabinet Secretary for Social Security and Older People advising that they supported the Scottish Ministers suspending assistance where an individual has not provided information which is needed to review their entitlement. Stakeholders considered this a more proportionate action than immediately ending the individual's entitlement to assistance on account of the information not being provided.

Scottish Ministers prepared a Fairer Scotland Duty Assessment when suspensions provisions were originally introduced in regulations for CDP and SCP in 2022²². This included consideration of suspensions where an individual has not provided information requested by Social Security Scotland, and continues to disengage with the process. The suspensions policy has subsequently been adopted with the delivery of ADP, PADP and Scottish Adult DLA.

The power to suspend is not used punitively. It is used to protect clients' entitlement to assistance and to give clients the opportunity to re-engage with Social Security Scotland if they fail to provide information where requested.

Before a payment is suspended, clients will have been provided opportunities to provide the required information following letters being issued to request this, and sharing that their assistance may be suspended. Social Security Scotland also assesses the risk of financial hardship and whether there are safeguarding concerns before suspending assistance. This approach to considering an individual's financial circumstances is likely to support individuals who are socio-economically disadvantaged.

As a result of learning from the live service, the current regulations are being improved. Where Social Security Scotland cannot be assured of an individual's ongoing entitlement, these changes will provide clarity around when entitlement can be ended. Where a person has continually disengaged with requests for information from Social Security Scotland and is found to no longer be entitled to assistance following a period of suspension, their award can be ended at the date of the suspension.

²² https://www.legislation.gov.uk/ssi/2022/41/pdfs/ssiod_20220041_en_001.pdf

By making these amendments, the Scottish Government is ensuring that safeguarding continues to be prioritised where Social Security Scotland has not had engagement from an individual for a prolonged period after requesting information relating to entitlement. Safeguarding is of importance because Social Security Scotland does not have information to suggest why an individual might have disengaged, and suspensions therefore provide a proportionate safeguard against payment of assistance to potentially vulnerable individuals where entitlement cannot be assured.

The suspensions process will remain the same as prior to amending these regulations. The only change arising is to the date an individual's assistance will end following the period of suspension where this particular scenario arises. Therefore, Social Security Scotland's existing safeguards in the suspension process will continue to be prioritised where the Agency has not had engagement from an individual for a prolonged period in this scenario.

Conclusion

This impact assessment has identified that overall, the Social Security (Cross-border Provision, Case Transfer and Miscellaneous Amendments) (Scotland) Regulations 2025 will have a positive impact for people in Scotland.

The Scottish Government is aware that groups who share protected characteristics may face difficulties in accessing or understanding their entitlements due to language or other communication barriers. Scottish Ministers are committed to mitigating these barriers both within Social Security Scotland and by ensuring that the independent advocacy service will be available to signpost people to third sector organisations where necessary. Interpreter services and assistance to complete application forms will be available.

We will continue to monitor the impacts of the changes introduced by these regulations and update the impact assessments where necessary.

Sign off of the impact assessment template:

Name: Ian Davidson

Job title: Head of Social Security Policy

Date: 13 June 2025