

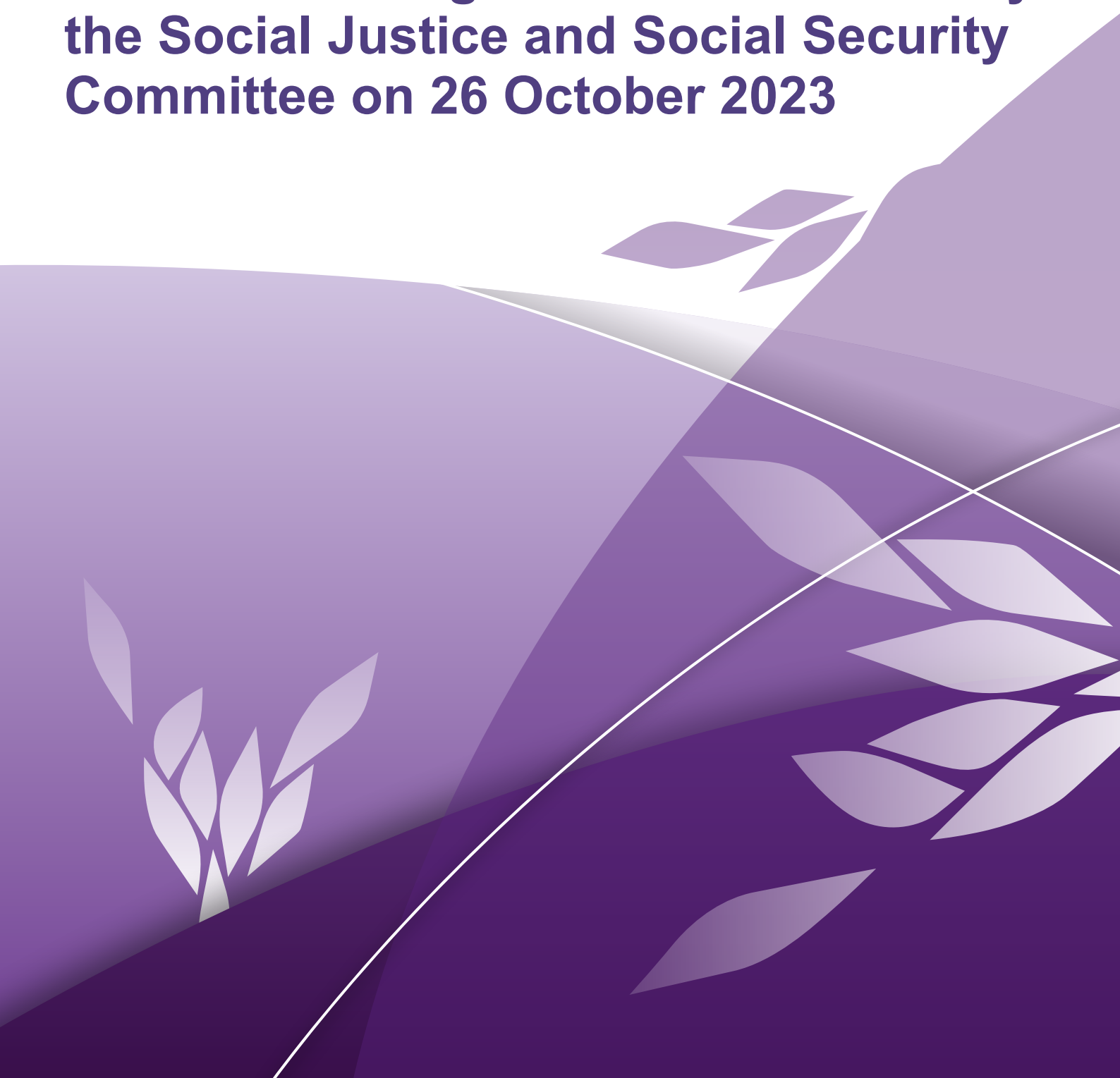


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Social Justice and Social Security Committee

Subordinate Legislation considered by the Social Justice and Social Security Committee on 26 October 2023



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Contents

Introduction	1
The Disability Assistance (Miscellaneous Amendment) (Scotland) Regulations 2023	2
Cabinet Secretary at Committee, 26 October 2023	3
Recommendation	5

Social Justice and Social Security Committee

To consider and report on matters falling within the responsibility of the Cabinet Secretary for Social Justice excluding matters relating to housing and tenants' rights.



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Introduction

1. This report sets out the Social Justice and Social Security Committee's consideration of [The Disability Assistance \(Miscellaneous Amendment\) \(Scotland\) Regulations 2023](#) at its meeting on 26 October 2023 (25th meeting, 2023)ⁱ. The [minutes](#) of the meeting have been published on the Committee's webpages. The [Official Report](#) of the meeting is available on the Scottish Parliament's website.


ⁱ Stephanie Callaghan MSP attended as Committee substitute for Marie McNair MSP at this meeting.

The Disability Assistance (Miscellaneous Amendment) (Scotland) Regulations 2023

2. The Disability Assistance (Miscellaneous Amendment) (Scotland) Regulations 2023 were laid on 11 September 2023. This instrument is subject to the affirmative procedure, which means it is for the Committee to recommend to the Parliament whether the draft regulations should be approved.
3. According to the [Policy Note](#) and [Explanatory Note](#), the instrument amends the Disability Assistance for Children and Young People Regulations 2021 and the Disability Assistance for Working Age People Regulations 2022, which set out the rules and eligibility criteria for Child Disability Payment (CDP) and Adult Disability Payment (ADP).
4. It also amends the Disability Assistance for Working Age People (Transitional Provisions and Miscellaneous Amendment) (Scotland) Regulations 2022 (ADP transitional provisions) which enable the transfer of entitlement for individuals in receipt of Disability Living Allowance (DLA), delivered by the Department for Work and Pensions (DWP), to ADP, delivered by Social Security Scotland.
5. The instrument makes technical changes aimed at smoothing the process for:
 - Young people moving from Child Disability Payment (CDP) to Adult Disability Payment
 - People transferring from PIP and DLA to ADP.
6. It also clarifies some issues around eligibility for Carer's Allowance and application of EU social security co-ordination rules, which can apply if someone moves between the UK and EU countries.
7. The Delegated Powers and Law Reform Committee considered the instrument at its meeting on [19 September 2023](#) and made no recommendations in relation to this instrument.

Cabinet Secretary at Committee, 26 October 2023

8. At its meeting on [26 October 2023](#), the Social Justice and Social Security Committee heard from Shirley-Anne Somerville, Cabinet Secretary for Social Justice.
9. During discussion, Members were interested in the move from Child Disability Payment (CDP) to Adult Disability Payment (ADP), as well as the transfer from Disability Living Allowance (DLA) or Personal Independence Payment (PIP) to Adult Disability Payment.
10. On the move from CDP to ADP, Members were specifically interested in how long individuals are waiting for payments ¹, rejection rates for applications to ADP ² and what support young people moving to ADP are receiving with regards to the application process. ³
11. On wait times, the Cabinet Secretary said she recognised people are waiting too long for payments but that changes have been made to processes to improve things. The Cabinet Secretary added she is happy these measures are making a difference and that that difference will be apparent in statistics as they become available. ⁴ With regards to applications for ADP being rejected, the Cabinet Secretary emphasised the importance of supporting people through the system and with the application process. ⁵ She also noted the low number of appeals and reconsiderations at Social Security Scotland compared with the Department for Work and Pensions-

 The committee can take heart from the fact that the number of redeterminations and appeals is exceptionally low compared with the figures for the DWP, which once again demonstrates that we are getting the decision right first time in many more cases than was the case with the DWP. ⁶
12. Having said that, the Cabinet Secretary did also recognise the need for continuous monitoring and evaluation to ensure fairness. ⁷
13. With regards to support offered to young people, the Cabinet Secretary set out that the eligibility for CDP has been extended to the age of 18 and the Scottish Government is "confident that we have systems in place to ensure that there is no gap in payment". ⁸ She further stated that several pieces of correspondence will be sent to individuals to inform them about the transition phase and provide details on where they can seek support. ⁹
14. The Cabinet Secretary also explained that Social Security Scotland offers support with applications via local delivery staff, something she commented is not available within the DWP system. She said that in addition to this, there is an independent advocacy service for those receiving CDP and ADP, along with signposting to welfare rights and advice services. ¹⁰
15. Members were also interested in whether processes could be passported or

automated as well as whether Social Security Scotland would monitor the number of individuals who get a different level of award on ADP than they had received under CDP.¹¹ More broadly, the Cabinet Secretary was asked how Social Security Scotland can assist young people and their families in understanding how their other payments could change as a result of the transition process from CDP to ADP.¹²

16. In response, the Cabinet Secretary said that, while automation is not possible due to CDP and ADP having different eligibility criteria¹³, the Scottish Government are focussed on simplifying the process to make it easier for individuals-

” We are making it easier in a number of ways, but we are very keen to ensure that we do everything that we can, should anything come through as a result of lived experience now that the systems are in place, whether that is in the regulations or in the way that we work, to make it easier for people. We are at that stage rather than full automation.¹⁴

17. On award levels between CDP and ADP the Cabinet Secretary said Social Security Scotland will actively monitor individuals transitioning, tracking them in the system and evaluating any difference in awards.¹⁵
18. Finally, in answering questions regarding how Social Security Scotland can help people understand the implications of the transition on other their payments, the Cabinet Secretary highlighted that while all benefits systems are complex, Social Security Scotland does have a role to play in signposting to independent services.¹⁶
19. Following the evidence session, the Cabinet Secretary for Social Justice moved motion [S6M-10409](#) —That the Social Justice and Social Security Committee recommends that the Disability Assistance (Miscellaneous Amendment) (Scotland) Regulations 2023 [draft] be approved. The motion was agreed to without division.

Recommendation

20. The Social Justice and Social Security Committee recommends that the Disability Assistance (Miscellaneous Amendment) (Scotland) Regulations 2023 [draft] be approved.

- 1 Social Justice and Social Security Committee. Official Report, 26 October 2023, Col 5.
- 2 Social Justice and Social Security Committee. Official Report, 26 October 2023, Col 7.
- 3 Social Justice and Social Security Committee. Official Report, 26 October 2023, Col 11.
- 4 Social Justice and Social Security Committee. Official Report, 26 October 2023, Col 6.
- 5 Social Justice and Social Security Committee. Official Report, 26 October 2023, Col 7.
- 6 Social Justice and Social Security Committee. Official Report, 26 October 2023, Col 7.
- 7 Social Justice and Social Security Committee. Official Report, 26 October 2023, Col 8.
- 8 Social Justice and Social Security Committee. Official Report, 26 October 2023, Col 8.
- 9 Social Justice and Social Security Committee. Official Report, 26 October 2023, Col 11.
- 10 Social Justice and Social Security Committee. Official Report, 26 October 2023, Col 11-12.
- 11 Social Justice and Social Security Committee. Official Report, 26 October 2023, Col 13.
- 12 Social Justice and Social Security Committee. Official Report, 26 October 2023, Col 14.
- 13 Social Justice and Social Security Committee. Official Report, 26 October 2023, Col 13.
- 14 Social Justice and Social Security Committee. Official Report, 26 October 2023, Col 13.
- 15 Social Justice and Social Security Committee. Official Report, 26 October 2023, Col 14.
- 16 Social Justice and Social Security Committee. Official Report, 26 October 2023, Col 14-15.

