

SPSO decision report



Case: 202405909, Social Security Scotland
Sector: Scottish Government and Devolved Administration
Subject: Handling of application
Decision: upheld, recommendations

Summary

C complained that Social Security Scotland (SSS)'s handling of their transfer application was unreasonable. C received Disability Living Allowance (DLA) which was administered by the Department for Work and Pensions (DWP). C's condition had deteriorated significantly since their assessment for DLA and made enquires about how to report this. C understood that they were to submit an application to SSS (who were assuming responsibility from DWP for administering disability benefits in Scotland) to transfer from DLA to Adult Disability Payment (ADP).

It took more than six months for SSS to identify that C had followed the incorrect process, despite C attempting in the intervening period to check up on the progress of their application. When the correct process was explained to C, C requested a copy of the form they had submitted but they were told that this would require a Subject Access Request. This caused a further delay. Ten months after the form was originally submitted, SSS wrote to C with a transfer outcome letter. They stated that C's ADP needed to be reviewed and enclosed a paper form for completion. This caused significant distress to C, who had submitted the same form ten months earlier. C complained about the SSS's handling of their transfer application.

We found that SSS did not give sufficient consideration to C's circumstances when maintaining their position that C followed the wrong process. We considered that SSS should have identified that C's application had been submitted incorrectly at the time of receipt. SSS could then have signposted C appropriately to DWP. Therefore, we upheld C's complaint.

We welcomed SSS's decision to make an ex-gratia payment to C during our investigation, in recognition of a missed opportunity to identify the incorrectly submitted claim and calculating C's award from that time. In response to our decision, SSS agreed to make a further backdated payment to the date the documentation was received by SSS.

Recommendations

What we asked the organisation to do in this case:

- Apologise to C for the failings our investigation has identified. The apology should meet the standards set out in the SPSO guidelines on apology available at www.spsso.org.uk/meaningful-apologies.
- SSS should consider making an additional ex-gratia payment to C, to put C in the position that they would have been in had they been signposted to DWP when they first submitted their application, thereby triggering the transfer process at that time.

What we said should change to put things right in future:

- SSS should review their process, giving consideration to whether this should involve screening applications on receipt, with signposting as required. (We recognise that the process of transferring

benefits from DWP to SSS may be sufficiently advanced to render this unnecessary.)

We have asked the organisation to provide us with evidence that they have implemented the recommendations we have made on this case by the deadline we set.