

# **Scottish Welfare Fund**

## **Statutory Guidance**

**February 2018**

# SCOTTISH WELFARE FUND STATUTORY GUIDANCE – February 2018

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## 1. INTRODUCTION

- 1.1 The Scottish Welfare Fund (SWF) is a national scheme, underpinned by law<sup>1,2</sup>, and delivered on behalf of the Scottish Government by all 32 local authorities. It aims to provide a safety net to people on low incomes by the provision of Crisis Grants and Community Care Grants.
- 1.2 The Welfare Funds (Scotland) Act 2015 (“the Act”) places a statutory responsibility on each local authority to maintain a Welfare Fund<sup>3</sup>. The Act also gives powers to Scottish Ministers to make regulations and publish guidance, setting out how these funds should be administered. The Welfare Funds (Scotland) Regulations 2016 (“the Regulations”) and this guidance have been subject to public consultation (between 27 May 2015 and 21 August 2015). The guidance is reviewed annually and is issued by Scottish Ministers under Section 6 of the Act.
- 1.3 It is important to recognise that local authorities have extensive discretion over how the scheme is delivered in their area, from taking and processing applications to fulfilment of grants. This allows the scheme to be tailored to specific local needs. In addition, by making the point of access close to communities, local authorities are better able to provide a holistic service – making links across services and local organisations.
- 1.4 This guidance does not seek to cover all scenarios, rather it aims to provide a framework for decision making in order to promote consistency. The absence of guidance on a particular situation does not necessarily mean that a grant should be refused. Where discretion is exercised, it should align to the objectives of the SWF as set out in paragraph 2.1. At all times, local authorities must ensure applicants are treated with respect, and their dignity is preserved<sup>4</sup>.
- 1.5 A separate advice note called “Scottish Welfare Fund: Assistance with Housing Costs: 18-21 year olds” will be available from the end of April 2017 on the Scottish Government website. It is our intention to test out this advice note with local authorities, refine it and then incorporate it into the statutory SWF guidance at a later date.
- 1.6 Local authorities should note the statutory nature of this guidance and their responsibility to have regard to it, and any appendages, as required by the Act and regulations. Local authorities should also have regard to the findings of the Scottish Public Services Ombudsman (SPSO)’s SWF Annual Report 2016/17

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1 The Welfare Funds (Scotland) Act 2015

2 The Welfare Funds (Scotland) Regulations 2016

3 The Welfare Funds (Scotland) Act 2015 s1

4 The Welfare Funds (Scotland) Act 2015 s5

which highlighted the need to follow the guidance correctly as one of the areas for improvement.

## 2. PURPOSE OF THE SCOTTISH WELFARE FUND

- 2.1 A local authority may only use its SWF to provide occasional assistance (financial or otherwise) to individuals, specifically by way of a Crisis Grant<sup>5</sup> or a Community Care Grant<sup>6</sup>.

**Crisis Grants** are provided where an individual is facing a disaster or emergency situation, and where there is an immediate threat to the health or safety of that individual or their family.

**Community Care Grants** are provided where a qualifying individual needs help to establish or maintain a settled home. A Community Care Grant may also be provided to support individuals and families facing exceptional pressure.

- 2.2 Grants should be made available to individuals who do not have alternative means of paying for what they need. The Act specifies that grants do not need to be paid back, and are intended to meet one-off needs rather than on-going expenses.

### Crisis Grants

- 2.3 A Crisis Grant can be awarded to meet expenses that have arisen as a result of an emergency or disaster, in order to avoid serious damage or serious risk to the health or safety of the applicant or their family. In the case of an emergency, only living expenses should be awarded, and in the case of a disaster, both living expenses and household goods may be awarded.

### Community Care Grants

- 2.4 A Community Care Grant can be awarded to qualifying individuals<sup>7</sup>. A qualifying individual is defined as those who otherwise, without assistance, may be:

- in prison, hospital, a residential care establishment or other institution; or
- homeless or otherwise living an unsettled way of life

- 2.5 A Community Care Grant can be provided to qualifying individuals for the following reasons<sup>8</sup>:

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5 The Scottish Welfare Funds (Scotland) Regulation 2016 s6(2)

6 The Scottish Welfare Funds (Scotland) Regulation 2016 s6(3)

7 The Scottish Welfare Funds (Scotland) Act 2015 s2(2)

8 The Scottish Welfare Funds (Scotland) Regulation 2016 s6.4

- to enable qualifying individuals who are leaving care or imprisonment<sup>9</sup> to establish or maintain a settled home, where without a grant there is a risk that the individual will not be able to do so
- to enable qualifying individuals to establish or maintain a settled home after being homeless, or otherwise living an unsettled way of life
- to enable qualifying individuals to maintain a settled home, where without a grant there is a risk of the individual needing to go into a care institution
- to enable qualifying individuals to maintain a settled home in a situation where that individual, or another individual in the same household, is facing exceptional pressure
- to assist a person to care for a qualifying individual who has been released from prison or a young offenders' institution on temporary release

## **Users of the Scottish Welfare Fund**

**2.6** From data collected about the SWF, we know the following groups apply for assistance:

- people experiencing mental or physical health problems
- people with chronic and terminal illnesses
- people looking after children, including lone parents and kinship carers
- people experiencing eviction or re-possession
- homeless people
- people experiencing addiction problems
- carers
- older people
- person with a conviction
- families caring for a prisoner on temporary release from prison
- people experiencing family breakdown
- people fleeing domestic abuse
- pregnant women, women who have recently given birth or people adopting a child
- unemployed people
- care leavers, including young people

The Scottish Government wants to work with people who have recent experience of the benefits that will be devolved to the Scottish Government so that we can design a new social security system with, and for, the people of Scotland. This includes the SWF. We would encourage local authorities to promote the Experience Panels by putting up posters and encouraging people to register to

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<sup>9</sup> The qualifying individual must have been in prison, or a care institution, for (a) a period of at least 3 months, any part of which falls within the 9 months preceding the date of application or (b) two or more separate periods within that 9 month period.

join the panels. More information and recruitment materials can be downloaded from the Scottish Government website

<http://www.gov.scot/Topics/People/fairerscotland/Social-Security/Experience-Panels>.

## **A Holistic Approach**

- 2.7** A holistic approach puts the person at the centre and considers all their needs. In the context of the SWF, this might include housing, health issues or money management. But it is important to note that Crisis and Community Care Grants should not duplicate other provisions. In particular, grants should not be substituted for support provided under established community care arrangements. Local authorities will need to consider how the grants fit with their existing services where these offer help to similar client groups. In particular they will need to consider social work services, including crisis payments made under section 12 of the Social Work (Scotland) Act 1968, support for young people leaving care; and Throughcare and aftercare for people with a conviction, to ensure that the support provided is complementary. They will also need to ensure consistency with tackling homelessness, housing and housing adaptation services, and any support provided by registered social landlords.
- 2.8** It is crucial, therefore, that local authorities should ensure that they build and maintain relationships with a range of local partners, including NHS, third sector, advice agencies and money advice agencies, including credit unions. This will ensure where appropriate, people accessing the SWF can be signposted to other services which could address their wider needs. This approach may help reduce future demand for the SWF and help local authorities manage their fund more effectively. More detail is in paragraphs 2.12 and 2.13.

## **Sharing Best Practice**

- 2.9** Sharing best practice is a good way to improve performance, avoid reinventing the wheel, save costs and ensure consistency across Scotland. Local authorities must proactively share best practice, in particular, how to achieve best value when procuring goods for SWF awards and also how best to engage with people accessing the fund to make service improvements. Signposting applicants to wider support services is also a critical area of best practice for local authorities. The SWF Practitioners Forum and other appropriate for a must be used to discuss and share best practice to create and encourage a learning environment. Improvements made to the delivery of the SWF must also be shared with the Scottish Government and published on the local government knowledge hub (<https://khub.net/>)

## **Local Authority Responsibility as Corporate Parents**

**2.10** Local authorities **must take account** of their Corporate Parenting responsibilities in the delivery of their Welfare Funds, to uphold the rights and secure the wellbeing of looked after children and care leavers. Statutory guidance<sup>10</sup>, issued under the Children and Young People (Scotland) Act 2014, sets out the parameters in which Corporate Parents should develop their approach, informed by the needs, views and experiences of looked after children and care leavers. In the context of the SWF, this may mean:

- being aware of issues which could affect the wellbeing of care experienced young people (CEYP)
- being aware of the likelihood of how/ when CEYP might apply to the SWF
- promoting the interests of CEYP
- providing CEYP with opportunities
- participating in activities designed to promote the wellbeing of CEYP
- taking action to help CEYP access opportunities and make best use of the services and support it provides

### **Other agencies**

**2.11** Local authorities should make connections with other agencies and services, on behalf of applicants helping to build capacity and resilience in communities. Citizens Advice Bureaux offer a holistic service which may be particularly useful in this regard. By working in partnership with other local agencies, local authorities will be able to facilitate contact, in some cases for the first time. This wider support may help to prevent repeated applications to the SWF.

**2.12** In this regard, applicants may benefit from the following services:

- support to maximise income (including benefits advice and support in applying for benefits). Claiming the benefits that people are entitled to will help maximise incomes and can reduce poverty levels. It may also help reduce pressure on the Scottish Welfare Fund. Many people across Scotland may not be claiming the support they are entitled to receive. A change in people's lives, such as having a child, a family bereavement or becoming a carer for a family member, can mean they are now entitled to support. Making sure that everyone receives the financial help they are entitled to is also key to ensuring everyone is treated with dignity and respect.
- support for housing and tenancy issues including, but not limited to, housing support services for tenancy sustainment, advice on landlord/tenant disputes and home ownership issues

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<sup>10</sup> <http://www.gov.scot/Publications/2015/08/5260>

- signposting to other services and other information (for example information about fuel efficiency, loft insulation, safer homes and the value of home contents insurance)
- financial advice (including budgeting, financial education, advice on requirements to open a bank account for receipt of benefit payments, debt advice and ways of saving money). It is important that responsible money management is encouraged from an early stage and people accessing the SWF take advantage of the free financial help and information that is available locally. Although it may not be an immediate priority for people in crisis situations, taking time to learn how to budget, get advice on paying off debts and how to save for the future, as well as accessing low interest credit, for example via credit unions will have longer-term benefits
- mediation and advocacy support (including citizens advice and welfare rights)
- resilience support (including befriending, building local networks, education training and employability support)
- healthcare support, including mental health and addiction services and advice on registering with GPs

**2.13** The Department for Work and Pensions (DWP) also plays a key role for local communities, providing mainstream benefits and short term benefits advances (STBA), as well as the Flexible Support Fund for applicants to help them get a job eg interview expenses.

**2.14** More generally, local authorities should take steps to engage with organisations dealing with vulnerable or under-represented groups in their area, to raise awareness of the fund. Local authorities should also ensure that relevant organisations in their area are aware of their approach and processes for administering their SWF. This includes a presence on the local authority website.

### **Links to DWP benefits and other payments**

**2.15** The DWP delivers a range of other support, depending on the circumstances of the individual, for example, Hardship Payments and Budgeting Loans. Being in receipt of a Community Care Grant or Crisis Grant has no impact on eligibility for any other benefit.

**2.16** Local authorities will need to maintain a good working relationship with the DWP in order to avoid confusion, repeated cross referrals and poor service to applicants. Welfare Fund teams should maintain regular contact with their DWP single point of contact, highlighting issues as they arise. Local authorities may also wish to provide publicity materials to local Job Centres, as well as the third sector, to ensure applicants are aware of who to contact.

**2.17** Community Care Grants and Crisis Grants are disregarded for calculation of Council Tax Reduction and Legal Aid, and will be treated as not liable to income tax.

**Where an applicant is seeking to make an application for a Crisis Grant and has an outstanding benefit claim**

**2.18** Local Authorities and local DWP offices should seek to make sure that entitlement to a DWP payment is realised before recommending an application for a Crisis Grant for living expenses, where this arises as a result of non-payment of benefits.

**2.19** Applicants may be eligible for a STBA if they are awaiting their first benefit payment and are in urgent financial need. The amount of money awarded will depend on the applicant's circumstances. The applicant will be required to pay back the advance; this is normally taken from benefit payments in agreed instalments.

**2.20** Where the local authority considers the need is severe, it should make an exception and make a payment while an application to the DWP is still in progress. Decision makers should ensure that the award made should meet the applicant's needs.

**2.21** Applicants are not required to have made an application for a Budgeting Loan before applying for a SWF grant. Budgeting Loans are not provided to cover living costs.

**Sanctions and Disallowances**

**2.22** Applicants subject to a suspension, disallowance or sanction by DWP can apply for Crisis Grants and Community Care Grants in the same way as any other applicant.

**2.23** Local authorities should consider eligibility and prioritisation in the normal way, as set out in the decision making process at Section 5. The reason for the sanction, or the way it has been applied, should not be taken in to consideration in assessing the application.

**2.24** The DWP target time for making a decision on a suspension is 48 hours. Therefore any award for a suspension should not extend beyond that timescale in the first instance. If an applicant is subsequently sanctioned, or disallowed and they make a further immediate application for assistance, this should be

treated as being one application for the purposes of calculating the number of times an award has been made.

**2.25** The SWF is a budget limited scheme. Grants are intended to meet occasional or short term needs and not to provide an alternative source of regular income. It is important to address any underlying issues as early as possible, by taking a holistic approach and referring to relevant sources of help as appropriate as detailed in paragraphs 2.12 and 2.13. For those subject to DWP sanctions or disallowances, applicants should be encouraged to engage with the DWP to find a sustainable longer term solution, for example, appealing the sanction, applying for a Hardship Payment or meeting the requirements attached to a sanction in order to resolve their financial difficulties. It should be noted however, that in some circumstances a Hardship Payment will need to be repaid. For example, if the applicant is in receipt of Universal Credit the hardship, Payment would need to be repaid. If however, the applicant is in receipt Jobseekers Allowance it does not need to be repaid.

### 3. FINANCIAL MANAGEMENT OF WELFARE FUNDS<sup>11</sup>

- 3.1 In order to achieve consistency of service provision across Scotland, local authorities should apply a financial management approach to managing Community Care Grant and Crisis Grant budgets that shares similar principles.
- 3.2 It is expected that local authorities should manage expenditure in such a way as to ensure effective budgetary management of funds over the financial year.
- 3.3 Local authorities should establish and monitor at least two budget headings for 'Community Care Grant Provision' and 'Crisis Grant Provision'. Further derivatives of these may also be of benefit to individual local authorities.
- 3.4 Local authorities are free to vire between Community Care Grants and Crisis Grant budget headings without restriction. It is, however, an aim of the national scheme over time to seek a real terms reduction in expenditure on Crisis Grants as a result of successful intervention preventing crisis reoccurring, thereby increasing funds available for preventative spend on Community Care Grants.
- 3.5 Although the application of virement can be helpful for monitoring purposes, local authorities should take decisions to apply priorities and cap spend at SWF level within the authority, i.e. Community Care Grants & Crisis Grants collectively. This means expenditure on Crisis Grants cannot be suspended whilst resources remain within the Community Care Grant budget heading and vice versa.
- 3.6 It is envisaged that budget holders will assess the demand pattern of actual activity against budget profile throughout the financial year, making operational decisions about whether it is possible to make awards for high priority applications only, high and medium or high, medium and low.
- 3.7 The priority can be set at different levels for Community Care Grants and Crisis Grants. We would not expect local authorities to reject any application which has been judged to match the priority level applying at the time the application is considered (i.e. at the time of decision) if funds remain in either the Community Care Grant or the Crisis Grant budget headings. This is further explained in paragraph 5.10 of this Guidance.
- 3.8 In particular, it is expected that local authorities should manage expenditure to ensure that high priority Crisis Grants can be met over the financial year in accordance with the priority ratings at paragraph 5.6 and 5.7.

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<sup>11</sup> The Welfare Funds (Scotland) Act 2015 s1

- 3.9** If a local authority was to encounter very high levels of demand, such that there is a real risk that the Funds will be exhausted before the end of the financial year, it may make use of a “high most compelling” priority rating. Under this rating, in order to be successful:
- the applicant’s need would be judged to be immediate and extremely severe
  - the applicant is judged to be highly vulnerable and at immediate risk
  - an award for the item or money requested would have a substantial, immediate and sustained effect in resolving or improving the health and wellbeing of the applicant or their family
  - there will be significant and immediate adverse consequences if the item or money is not provided
- 3.10** Local authorities are expected to manage their budget through-out the year in line with the principles outlined in this guidance. They should avoid being in a situation where they enter into the ‘high most compelling’ priority rating mid – year. It should **only be adopted late in the financial year**, or potentially after an event which has increased demand on local authority budgets, for example, flood causing demand to rise significantly in a particular area, in order to be able to maintain payments until the end of the period.
- 3.11** Local authorities who adopt the high most compelling rating should make the Scottish Government Social Security Directorate and stakeholders in their area aware of the adoption of this priority level, and how long this is likely to be in place, to ensure customers are adequately supported.
- 3.12** The Act provides for local authorities to augment their Welfare Fund budget should they choose to do so. In so doing, local authorities would require to establish a further budget heading(s) as there will be a need to monitor and report on the monies provided by the Scottish Government separately.
- 3.13** Local authorities should also avoid being significantly underspent towards the end of the year, unless there are legitimate reasons to explain why. However, they can carry this forward within the Welfare Fund within the context of their own arrangements.
- 3.14** Local authorities should recognise the potential additional unforeseen expenditure to arise as a result of the first and independent review process, and plan for this accordingly.

## Procurement of goods

- 3.15** The duty of best value is applied to all public bodies in Scotland. It is a statutory duty in local government, and in the rest of the public sector it is a formal duty on Accountable Officers. Local authorities have extensive discretion over how the scheme is delivered in their area including the fulfilment of grants. They should ensure when procuring goods for the Scottish Welfare Fund that due consideration is given to obtaining best value for money. Local authorities must also demonstrate that best value has been achieved and ensure that there is transparency around decision making, with robust mechanisms in place to record such information. Audit Scotland has developed Best Value toolkits which are available at: <http://www.audit-scotland.gov.uk/our-work/best-value/best-value-toolkits>

## ADMINISTRATION / APPLICANT JOURNEY

- 4.1** Local authorities should ensure that applicants applying for assistance are treated with respect and their dignity is preserved as per the Welfare (Scotland) Act 2015<sup>12</sup>. This is in line with the commitment that the Scottish Government has made to build a social security system that is founded on the principles of fairness, dignity and respect.
- 4.2** It is up to local authorities to determine where the application and processing of the SWF should sit in relation to other services, taking any steps deemed appropriate to ensure separation of duty and integrity of the award.

### Residence of applicants<sup>13</sup>

- 4.3** The Regulations specify that a local authority may provide assistance out of its SWF only to a person who is resident in the local authority area, is about to become resident in the local authority area, or a person who is homeless.
- 4.4** Where a person has been assessed as homeless by a local authority, they are legally entitled to be provided with accommodation by that local authority, and therefore likely to have an address in that area. If the person has been assessed as unintentionally homeless by a local authority, they are entitled to settled accommodation in that area if they have a local connection with the area (but may be waiting for this in temporary accommodation). If assessed as intentionally homeless, they will be entitled to temporary accommodation.

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<sup>12</sup> The Welfare Funds (Scotland) Act 2015

<sup>13</sup> The Welfare Funds (Scotland) Regulations 2016 s.4

In either case they will have an address which does not need to be a permanent one.

- 4.5** In some cases, temporary accommodation may be provided out-with the local authority area where the assessment has been made, in which case they should apply to the local authority where that address is. If the applicant is sleeping rough, they may be able to use a contact and care of address from a local third sector organisation. An application should not be rejected solely on the basis that the applicant does not have an address, further investigation is required to determine eligibility.
- 4.6** If the person is homeless or has no fixed address, for example, a member of the Gypsy Traveller Community, they should be treated as though they live in the local authority to which they have applied. This applies to applications for both Crisis Grants and Community Care Grants.
- 4.7** Local authorities can also provide assistance from their SWF, in the form of a Crisis Grant, to assist the applicant to return home where a person is stranded in the local authority area, or provide assistance where exceptional circumstances justify this. The SWF should not, however, be used to meet repatriation costs associated with helping a person leave the United Kingdom and return to their home country.
- 4.8** If a person from out-with the local authority area seeks to make an application, the local authority concerned can refer the applicant to their home local authority, if the circumstances dictate that this arrangement would be more practical. For example where the payment needs to be collected in person and this cannot be achieved due to the travel distance.
- 4.9** Where an applicant is moving to a different local authority area and applies for removal costs, or Community Care Grant items, the local authority that they are moving to should consider the application.
- 4.10** Prisoners, young offenders or applicants leaving other institutions to set up a new home should apply to the local authority where they intend to reside, rather than the one where the prison or institution is located.

### **How applications are made<sup>14</sup>**

- 4.11** The Scottish Government website provides contact details for Welfare Funds in each local authority. Local authorities have discretion about where in the organisation they process applications, and how they link the scheme to existing

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<sup>14</sup> The Welfare Funds (Scotland) Regulations 2016 s7

services. There is an expectation on local authorities to work with applicants to identify any other support they may need or be entitled to and signpost them to relevant services to help solve any underlying problems.

- 4.12** The application process will depend on the local authority's approach to wider service delivery and the infrastructure it has in place. Local authorities will need to weigh up the cost of providing services with the benefits of each channel, for example, in assessing need and identifying underlying issues.
- 4.13** Local authorities must make provision for applications to be taken via three delivery channels, for example, online, on the phone and face-to-face. This is in order to meet varying needs, for example, in terms of literacy, access to (and skills to use) the internet and the ability to travel to appointments. At a minimum, local authorities must provide a face-to-face option for more vulnerable individuals, and people who have support needs or impairments. Paper applications may be accepted from those who are unable, for example prisoners, or prefer not to use other methods.
- 4.14** Local authorities should consider the Principles of Inclusive Communication<sup>15</sup> and use these in planning and reviewing their channels for delivery, with a view to reducing the barriers to access and meeting the needs of all applicants.

### **Support for Applications**

- 4.15** Ideally, applications should be made by applicants themselves. Where appropriate, however, local advice agencies may provide support. A supported application may be preferred in a range of situations, for example, where children are subject to a Compulsory Supervision Order. In this example, a person supporting the family would help with the application (in the parent's name) for assistance. An award can then be made to the person supporting the family by way of 'supervised spend' (see paragraph 4.46) or delivery of goods organised with them.
- 4.16** Where an applicant has been supported in making an application, a local authority should establish with the applicant if they wish a decision letter or other correspondence to be copied to the agency/person that provided support to the applicant.
- 4.17** The Regulations allow for applications to be made on behalf of another person<sup>16</sup>. If an application is made on behalf of a person, by someone other than an appointee, that person should be required to give their consent to the application

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<sup>15</sup> <http://www.gov.scot/Publications/2014/12/2912/1>

<sup>16</sup> The Welfare Funds (Scotland) Regulations 2016 s.12

being made on their behalf in writing. Local authorities may make an exception if this is an unreasonable demand on the applicant.

## **Gathering Evidence and Demonstrating Proper Consideration**

- 4.18** Decision makers should clearly document the reasons for their decisions. This includes how they have used or evaluated the evidence to decide on the eligibility and priority of the application. The SWF is a discretionary fund and decision makers should detail their reasons for making decisions in case a review is requested, recording any reasons for deviating from the guidance.
- 4.19** Decision makers should ensure that they:
- treat applicants with respect and preserve their dignity
  - follow any local protocols relating to the processing of applications, for example, in notifying the applicant of the outcome of an application
  - base their decisions on accurate and up-to-date information
  - take all relevant information into account
  - seek to gather necessary relevant information to fill any gaps in evidence, giving the applicant an opportunity to make their case and respond to any apparent conflict in evidence. As highlighted in SPSO's SWF Annual Report 2016/17
  - use discretion where appropriate, on a case-by-case basis
  - keep an open mind and focus on the need identified by the applicant and the overall objectives of the SWF
  - make a reasonable and fair decision, based on all the facts of the case, in keeping with the laws of natural justice
  - make decisions within timescales, as set down in Section 4(3) of the Act and Section 13 of the Regulations.
- 4.20** Further relevant information may need to be gathered if there is not enough information on the application, or there is reason to clarify or question the information. If there is reason to doubt what is provided, for example, inconsistencies, the decision maker may need to gather additional information to decide whether, *on the balance of probability*, the information provided during the application process is true.
- 4.21** A decision maker may contact the applicant for more information or check with third parties, such as social workers, landlords and doctors, subject to the applicant's agreement. When this type of contact takes place, it should be recorded.
- 4.22** Decision makers should be mindful of using social media sites to gather information. It is possible that the account they propose to access, and the information it contains, may not have been put there by the individual in question, and therefore the amount of weight the decision maker can attribute to

it is limited. Information given on the phone should be written up for inclusion in the record. Decision makers may also arrange a home visit to gather more information if they think it is necessary.

- 4.23** Applicants should be treated fairly and openly. It is important that they understand what evidence they need to provide to support their application. It is also important that, where evidence is counting against their application, they are told what it is and have an opportunity to explain further.
- 4.24** Applicants should not be asked for evidence which would cause them to incur an unreasonable expense. They should not be asked for evidence if it is not essential, or if it is already evident that the application will not succeed even with that evidence in place. If the applicant refuses to give further information, a decision should be made on the basis of information that has been gathered during the initial application. If the decision maker forms the impression that the application is not properly completed, or evidence is not being provided because of a chaotic lifestyle or other vulnerability, efforts should be made to provide appropriate support so that the necessary information can be gathered and a well informed decision can be made within the statutory timescales.
- 4.25** If the information could be obtained from another source, such as a support worker or nurse, the decision maker could, with the applicants permission, approach such other people to obtain supporting information.
- 4.26** “Right First Time”<sup>17</sup>, produced by the Scottish Government, looks at how public bodies can save money and improve service to applicants by making fewer mistakes or poor decisions. It also sets out a checklist of questions for decision makers and managers at each stage of decision making.

### **Appropriate, robust recording of decision and reasons**

- 4.27** The Regulations require the following be recorded during the journey of an application<sup>18</sup>:
- application date
  - details of the application, including the type of application and what was applied for
  - any contact with the applicant in addition to the application form
  - a summary of the key facts taken into account in making the decision
  - any information gathered that was actively disregarded
  - the priority given

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<sup>17</sup> <http://www.scotland.gov.uk/Publications/2010/02/23134246/0>

<sup>18</sup> The Welfare Funds (Scotland) Regulations 2016 s3 - 16

- relevant discussions about fulfilment of award and method agreed
- decision made
- the reason for the decision
- decision date

It is important that decision making records are robust and reflect all the facts of the case and decision making process, as they are retained and may be referred to at a later date in the event of a request for review. Sample decision making templates for original and 1<sup>st</sup> Tier Reviews decisions have been included as examples and can be found at annexes D and E.

**4.28** Decision making documentation should be retained for six years<sup>19</sup> in addition to the current financial year, in line with current retention policies for Housing Benefit, and made available if there is an application for review.

### **Communicating the decision**<sup>20</sup>

**4.29** The Regulations require that all applications should receive an official decision and that this is communicated to the applicant in writing, unless the applicant requests otherwise.

Decision letters should contain sufficient information to enable the applicant to understand the reason for the decision. (As highlighted in the Scottish Public Services Ombudsman (SPSO) SWF Annual Report 2016/2017 published 29 June 2017) The decision in writing must use plain and unambiguous language, be clear and concise and include the following :

- details of the application including the type of application and, what was applied for
- the date of the application
- the date of the decision
- an explanation of the reason for the decision referring to the applicant's circumstances and priority level given. As highlighted in SPSO's SWF Annual Report 2016/17
- the reason for any item not awarded
- details of any assistance awarded and the method by which it will be awarded
- If the applicant has received support to make the application, a copy of the decision should be sent to the agency/person who has provided the support, if requested.

**4.30** Crisis Grant decisions should be given as quickly as possible, by phone if possible, to ensure that the applicant knows the outcome. Text and email may

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<sup>19</sup> The Welfare Funds (Scotland) Regulations 2016 s16

<sup>20</sup> The Welfare Funds (Scotland) Regulations 2016 s13

be used if there is a way of ensuring that the applicant is receiving the message sent. Decisions should be followed up with a letter.

- 4.31** If an applicant has particular needs due to a disability or an impairment, for example vision, cognitive or hearing impairments or a learning disability, efforts should be made to communicate the decision in a way that meets their needs.
- 4.32** It is very important that applicants are given an accurate reason for their application being rejected, even if this touches on sensitive issues. Staff delivering bad news to applicants should bear in mind the severity of their circumstances, treat them with respect and seek to understand the position that they are in. The information offered should be clear and concise. Where possible, alternative forms of support available locally should be suggested but only where there is some probability of success.

## **Prisoners**

- 4.33** Local authorities should consider the needs of prisoners in accessing their Welfare Fund and meet them where they can. There is a high incidence of literacy problems in the prison population and telephone and on-line applications are likely to be problematic. Prisoners may not have access to the internet and, while they may get access to a phone, prisons may not be able to provide the necessary supervision for the duration of the application call. The Scottish Government therefore issues a stock of generic application forms to prisons so that they can be submitted to any local authority. Local authorities may also want to supply their own forms, where they receive a high volume of applications from one or more prisons.
- 4.34** Local authorities should also be aware that applications may also be received from prisoners' families, who may have to apply more frequently than other groups, whether to meet their own needs, or to support their family member on release, or temporary release from custody. They may not have access to relevant support networks, as they can be disadvantaged due to the stigma attached to having family members in prison. In such circumstances, decision makers should demonstrate the guidance on the treatment of applicants (4.19), and communicating decisions (4.29-4.32)
- 4.35** The Scottish Prison Service has agreed to meet the cost of the postage of Welfare Fund application forms to allow prisoners to submit their applications to local authorities. To allow for consistency of service for prisoners, the two private prisons at Addiewell and Kilmarnock have agreed to do this also.
- 4.36** Prison Officers, third sector organisations, social workers, peer mentors, where available, and other prisoners with more experience of completing forms may be

able to offer support. Where there are strong links with a local prison, local authority staff may wish to make an arrangement to provide support for applications, particularly if they have a support arrangement in place for other local authority services.

**4.37** The Scottish Government and COSLA have produced an advice note for local authorities<sup>21</sup> and people who might be supporting prisoners in making an application, setting out how the Welfare Funds can contribute to reducing re-offending. This includes a suggested applicant journey for prisoners and highlights points to consider in processing an application.

**4.38** Key points to remember for local authorities are:

- involve the prisoner's named contact (whether prison officer, prison Throughcare officer, social worker, third sector mentor or peer mentor – as appropriate) in the process so that the individual is supported throughout the application process.
- consider the individual circumstances of the applicant and avoid rule of thumb measures in making awards
- applications should not be rejected on the basis that the applicant does not have an address - applicants should apply to the local authority they intend to live in
- consider decisions in principle (see paragraph 8.40) where possible to allow applicants to plan ahead
- ensure awards are timely and accessible for people leaving prison in order for the grant to have the best effect
- send decision notices to the single point of contact in the prison in time for the applicant to ask for review or make an alternative plan
- make links with local community justice and offender reintegration services and include relevant advice in decision letters

A range of work is underway to improve the liaison between the SWF and prisons, for example, reviewing the advice note referred to in paragraph 4.37.

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21 <http://www.scotland.gov.uk/Topics/People/welfarereform/scottishwelfarefund/socialfund/Briefingnotes/Briefingnoteforprisons>

## How grants are fulfilled

- 4.39** Local authorities decide what support will be given and the amount of any grant, with the aim of achieving best value for money and providing support to the maximum number of applicants, whilst respecting the needs of the individual applicant. The Act allows local authorities to pay third parties to arrange for them to provide goods or services to successful applicants for assistance<sup>22</sup>.

### Crisis Grants

- 4.40** The Regulations require Crisis Grants be made in cash or cash equivalent, unless the local authority considers it would be of advantage to the applicant for the grant to be provided in a different manner<sup>23</sup>.
- 4.41** A cash equivalent is something that does not limit the recipient as to where they can spend an award, or what they can spend it on. Cash equivalent examples include Paypoint or similar services, Allpay (without restrictions), high street vouchers (accepted at a number of outlets) and electronic bank transfer.
- 4.42** Decision makers should have an open discussion with the applicant about available cash and cash-equivalent options in order to select the most appropriate method. When deciding to make a cash equivalent payment, local authorities should seek to understand any potential for stigma and take reasonable steps to minimise this.
- 4.43** When establishing whether it would be of advantage to the applicant to receive a grant in another manner, i.e. not in cash or cash equivalent, local authorities must ensure the individual's needs and preferences are understood, recorded and taken into consideration as part of the decision making process.
- 4.44** Some examples where it may be of advantage to the applicant to receive a grant in another manner include the provision of travel vouchers or fuel cards to meet a specific need or white goods, such as cookers and fridges, in the case of disaster.

### Community Care Grants

- 4.45** Community Care Grants can be fulfilled in cash, cash-equivalent or in kind. Local authorities can fulfil Community Care Grants in kind, rather than by using cash or a cash-equivalent, for example, by providing white goods, furnishings or

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22 The Welfare Funds (Scotland) Act 2015 s2(4)

23 The Welfare Funds (Scotland) Regulations 2016 s.10

travel vouchers. This can help secure economies of scale, for example, through bulk purchasing or re-use initiatives.

**4.46** In making decisions, local authorities need to balance the needs of the applicant against the remaining budget. Factors to be taken into consideration include:

- balancing quality, cost and the projected life of the item to make sure that the decision represents best value
- the capacity of the applicant to travel to make purchases, or collect an award, and the delivery costs associated with delivery of bulky goods
- what infrastructure or contracts the local authority has in place to make bulk purchases, and other local services available (for example, furniture re-use schemes)
- the likely wear on the item and the effect on its life, as this may result in repeat applications (for example, if a washing machine is going to have heavy use, a larger capacity washing machine may be required)
- any specific needs due to equality considerations (for example, a need for adapted furniture because of a disability)
- energy efficiency of the products being chosen – where possible, white goods should be A rated

#### Supervised Spend

**4.47** In certain circumstances, decision makers may make awards on the basis that spending should be supervised by an appropriate agency. This may be appropriate where the applicant needs help with decision making or where there is evidence that previous awards have not been spent on the items intended.

#### Consistency in Awards

**4.48** Local authorities may use a standard list of current prices to identify the costs of commonly applied for items. Local authorities may wish to construct their own lists based on their contracts, or prevailing prices in their local economies, taking into account varying costs of delivery and the needs of the applicant.

**4.49** If the applicant demonstrates a need for a specialist product to meet their needs, for example, where an item needs to be of a specific type or be adapted, the local authority should exercise discretion. An award of a higher amount may be appropriate, for example, where a disabled person needs a cooker with special adaptations, or where family size means that their needs will be better met by goods of a higher specification.

## **Food banks**

**4.50** Local authorities should not use food bank referrals to fulfil a grant award. If an application has been unsuccessful, local authorities may consider signposting to local food banks to meet the applicant's immediate need as part of the wider holistic service. It may also be appropriate to refer or signpost, if it has not been done already, an applicant to income maximisation and other services to ensure they are receiving all the benefits they are entitled to.

## **Charging items to the budget**

**4.51** If a local authority decides to fulfil an award using a non-cash method, it should ensure any goods, vouchers and so forth are charged to the budget at their actual cost or reasonable value, or the cost to the local authority.

## **Data Sharing**

**4.52** Local authorities should validate the information that is collected in the application process by checking data provided by the DWP. Personal information about individuals should be held in confidence, in keeping with local data protection policy and practice. Information provided in connection with an application should not be passed on without consent.

**4.53** Local authorities should consider the legalities and practicalities of using data they already hold on applicants, to streamline the application and verification process.

**4.54** The Ombudsman may require local authorities to supply or produce information or documents which the Ombudsman considers necessary for conducting a review<sup>24</sup>.

## **Fraud / misuse of goods**

**4.55** Local authorities should be pro-active in preventing fraud and share practice with other local authorities. Where a local authority identifies evidence of fraud or misuse of the fund, they should record this and take it in to account in future applications. Where appropriate, the applicant must be made aware if this is the case and be given the opportunity to explain. Local authorities should also make appropriate links to their processes for audit, risk assessment and detecting fraud.

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<sup>24</sup> The Welfare Funds (Scotland) Act 2015 s 10

## 5. THE DECISION MAKING PROCESS

### Recording applications

- 5.1 Screening questions or eligibility checkers should not be used to deter applicants from making an application for SWF grants. Even if it seems unlikely that the application will be successful, the applicant should not be prevented from applying. A record should be kept of each application and the customer notified of the outcome and how a review can be requested. This ensures that each attempt to apply is captured in the statistical data collected and a decision maker has the opportunity to consider the case and apply discretion.

### Conditions which should be met for an applicant to be awarded a grant

- 5.2 The key test of eligibility for a **Crisis Grant** is the severity of the applicant's situation and the likely impact on them and their family.
- 5.3 The key test of eligibility for a **Community Care Grant** is retaining or establishing a settled way of life in the community.
- 5.4 Crisis Grants and Community Care Grants can cover a wide range of personal circumstances. Whether a grant can be awarded should depend on four separate stages:

#### Stage 1 – Initial eligibility checks<sup>25</sup>

- Verify identity and establishing that the home address, or the address the applicant intends to live at, is in the local authority, or that the applicant is homeless or has no fixed address
- Check whether the applicant is on a low income or does not have access to their money
- Check that the applicant or their partner does not have any savings or capital that excludes them for being awarded a grant (only relevant to Community Care Grants)
- Check that the applicant or their partner does not have savings or capital or some other source of help that they could use instead (only relevant to Crisis Grant applications)
- Check that the applicant is not being considered for a DWP Hardship Payment, or has an application pending for a STBA (only relevant to Crisis Grant applications)
- Check that the application is not for an excluded item (see Annex A)

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25 The Welfare Funds (Scotland) Regulations 2016 s4, s5 and s11

- Check that the application is not excluded because the application history precludes a repeat application, including in another local authority area - this includes checking that there has not been a change in circumstances since the last application
- Check that the application is not excluded for any other reason
- **Applicants do not need to have a National Insurance number to be eligible**

### Stage 2 – Meeting the requirements of the grant<sup>26</sup>

- Gather evidence to check whether the applicant's personal circumstances meet the conditions for the grants
- Check whether there is more appropriate support available to meet this need for example through other local authority services
- Check whether other local authority services have already undertaken any assessments which might inform the decision making process

### Stage 3 – Prioritisation of items applied for

- 5.5** Assess whether, taking the applicant's situation and needs in to account, the items applied for are of sufficient priority to warrant a payment from available funds (see Section 3 of the guidance regarding financial management of welfare funds). Each application should be considered on its own merits.
- 5.6** First, an application should be assessed taking into account the **nature, extent, severity and urgency** of the need, and the impact that an award would have on the circumstances of the applicant. Each item in the application should be considered in the context of the applicant's needs and should be given one of three priority ratings:
- **High priority** should be given to an item if the nature of the applicant's need is judged to be immediate and severe, they are judged to be highly vulnerable, an award for the item or money requested will have a substantial or immediate sustained effect in resolving or improving the health and wellbeing of them or their family and there will be significant adverse consequences if the item or money is not provided.
  - **Medium priority** should be given to an item if the nature of the applicant's need is judged to be less immediate or severe, they are judged to be moderately vulnerable, an award for the item requested will have a noticeable effect, although not substantial or immediate, in resolving or improving the

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<sup>26</sup> The Welfare Funds (Scotland) Act 2015 s2

health and wellbeing of the applicant and there will be moderate adverse consequences if the item or money is not provided.

- **Low priority** should be given to an item if the nature of the applicants need is not judged to be time critical, they are judged to have a degree of personal resilience, an award for the item requested will have only a minor effect in resolving or improving the applicant's health and wellbeing and there will not be identifiable adverse consequences if the item or money is not provided.

**5.7** The following matrix shows the interaction between the elements of prioritisation. Real situations will not fit neatly in to the boxes, but the matrix can be used as a guide for decision makers to help them improve consistency in decision making.

	<b>High</b>	<b>Medium</b>	<b>Low</b>
<b>Need</b>	Immediate Severe	Less immediate Less severe	Not time critical
<b>Vulnerability</b>	Highly	Moderately	Some resilience
<b>Consequences of no grant to health/ wellbeing</b>	Significantly adverse	Moderately adverse	No identifiable effect
<b>Effect of grant</b>	Immediate Substantial	Noticeable	Minor

**5.8** If the decision is to make an award, it may be for all or part of what has been applied for and may be an award of goods or cash.

**5.9** Second, an application should be assessed, taking into account the **vulnerability of the applicant** and the likely consequences of refusal. Some examples of vulnerabilities which would give an application higher priority are set out at Annex C. This is not an exhaustive list and should not be used rigidly to prioritise applications. Reasons for vulnerability may be specific to the individual and may change over time. If there are multiple reasons for considering a person to be vulnerable, they would be given a higher priority.

#### Stage 4 – checking priority levels applying at time of decision

**5.10** Finally, checking the level of priority that the local authority is paying out on that month, and whether there is sufficient money available in the budget to pay a grant. The level of priority used should be the priority level in place at the time

the decision was made unless a change has been made to the benefit of the applicant (e.g. a lower priority level is now in place).

### Crisis Grant or Community Care Grant

- 5.11** It is for the local authority to determine whether a grant should be made as a Crisis or a Community Care Grant. If an applicant applies for one, the local authority may decide to award the other if it is more appropriate to the applicant's circumstances.
- 5.12** Applicants may make an application for a Crisis Grant and a Community Care Grant at the same time if their circumstances make this necessary, for example a person who has left home because of violence and is in need of immediate support and longer term help to set up home.

## **6. QUALIFYING CONDITIONS / EXCLUSIONS**

### **Exclusions for both Crisis Grants and Community Care Grants**

- 6.1** The Regulations provide that a local authority does not need to consider an application if a person has applied for a Community Care Grant or a Crisis Grant for the same items or services within the last 28 days, where a decision has already been made and there has not been a relevant change of circumstances<sup>27</sup>.
- 6.2** Where an award has been made to assist a person to care for a prisoner on temporary release within the past 28 days and a further application is received for a different period of temporary release, this would be considered to be a relevant change in circumstances and a further award can be made.
- 6.3** Local authorities should not refuse Crisis or Community Care Grants on the basis that the applicant has outstanding debts to the local authority e.g. local authority tax arrears or unpaid parking tickets. Any grant made to the individual should not be used to pay outstanding debt to a local authority, see exclusions at Annex A of the guidance.
- 6.4** The Regulations also state that a person should not be awarded a Community Care Grant or a Crisis Grant for a range of excluded items<sup>28</sup>. These are set out at Annex A of the guidance.

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<sup>27</sup> The Welfare Funds (Scotland) Regulations 2016 s.8

<sup>28</sup> The Welfare Funds (Scotland) Regulations 2016 s.11

## **Travel Expenses**

- 6.5** There is no separate criterion for awarding grants for travel expenses. Expenses for travel to a family funeral or for visits to prison or hospital do not qualify for a grant in their own right. However, if the local authority judges that a journey is essential in connection with a crisis, exceptional pressure or in support of independent living, they may make an award for travelling expenses under the criteria for Crisis and Community Care Grants. In these cases, awards should be for the standard rate public transport. Where public transport is not available or is not suitable for some reason, petrol costs or taxi costs may be awarded. Local authorities may award travel vouchers.

## **Applicants subject to immigration control**

- 6.6** The legislation covering immigration control is very complex and changeable. It is important that Welfare Fund teams make links with officers within their local authority who specialise in this area.
- 6.7** People who are subject to *immigration control* means that they are not a national of an European Economic Area (EEA) state and (a) require leave to enter or remain or (b) has leave to enter or remain but is subject to a condition that they have “No Recourse to Public Funds” (NRPF). An individual with NRPF has no entitlement to mainstream social security benefits, local authority housing or homelessness assistance. Making a grant to a person with NRPF can affect their legal status and no award should be made. The applicant should instead be referred to Welfare Rights, the Home Office or relevant bodies for specialist immigration advice and assistance.

## Asylum Seekers

- 6.8** People who are awaiting a decision on an asylum application to stay in the UK, or whose application has been refused, are not entitled to most mainstream social security benefits and should be excluded from the SWF.

## Refugees

- 6.9** A ‘*refugee*’ is a person who has been granted permission to remain in the UK and becomes eligible to work and can access mainstream welfare benefits on the same basis as UK nationals. This includes applying for Community Care Grants and/or Crisis Grants from the SWF.

## European Economic Area Nationals

- 6.10** EEA nationals who are subject to a Habitual Residency Test will not normally be entitled to benefits while the test is carried out. During this period, the local authority may choose to exercise its discretion and award a grant.
- 6.11** EEA nationals may be more likely to approach the SWF for assistance due to UK restrictions on access to benefits, for example, as a result of a Genuine Prospect of Work Assessment. Applications for assistance from EEA nationals should be assessed in the normal way, as EEA Nationals are generally not excluded from applying for assistance by their immigration status.

## 7. CRISIS GRANTS<sup>29</sup>

### Circumstances in which a Crisis Grant may be awarded

- 7.1** This section gives more information on the circumstances in which a Crisis Grant may be awarded<sup>30</sup>. They are not exhaustive and decision makers may use their discretion to determine the form of support that an applicant needs. Decision makers should consider the needs, characteristics and circumstances of the individual in making a decision.
- 7.2** A Crisis Grant can be awarded in case of crisis to meet expenses that have arisen as a result of an emergency or disaster in order to avoid serious damage or serious risk to the health or safety of the applicant or their family.
- 7.3** A person can apply for a grant to cover:
- immediate short-term living expenses needed until their next income is due because of an emergency.
  - In an emergency situation where a person is stranded, costs for accommodation in a hostel. In these circumstances the cost must not be covered by other local authority obligations relating to homelessness.
  - living expenses or items where the need for them has arisen because of a disaster
- 7.4** Applicants will typically:
- not have enough money to meet immediate short term needs
  - not have access to any other source of support, for example, via an authorised overdraft, a loan from a bank or building society or credit union or family help
- 7.5** Applicants should not be expected to take high cost credit such as doorstep lending or payday loans to cover living expenses.
- 7.6** Local authorities may query the amount applied for if it seems too much. The local authority should make a judgement on how much money or which items the applicant needs to get through the crisis. Paragraph 7.24 provides guidance on suggested rates of support for Crisis Grants. Where the applicant is applying for items, local authorities should make the award in cash or cash equivalent, unless

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<sup>29</sup> The Welfare Funds (Scotland) Regulations 2016 s.6.(2)

<sup>30</sup> The Welfare Funds (Scotland) Act 2015 s2(1)

it would be to the advantage of the applicant to have an award made in a different way<sup>31</sup>.

- 7.7** The need must be current at the time of application, not an anticipated need or an application after the event, to repay expenses. A short term need may be for an item which will have a long term use. For example, following a disaster, a family may need a cooker and pans which they will use on an on-going basis.
- 7.8** Where a crisis is a result of a gap in income of an unknown duration, for example awaiting action by DWP, an award should usually be made for two weeks of living expenses at a time. If an applicant's circumstances have not changed and they make a further immediate application for assistance this should be treated as being a separate application for the purposes of calculating the number of times an award has been made.
- 7.9** If an applicant on Universal Credit applies for living costs and it is known that their next payment date is more than two weeks away, a decision maker can make an award to cover a period longer in duration, for example, four weeks. This action will remove barriers faced by an applicant when reapplying for the same items within 28 days (see paragraph 6.1).

## **Eligibility**

- 7.10** The Regulations require that an applicant must be aged 16 or over, on a low income and not have any access to any other appropriate source of financial support<sup>32</sup>.
- 7.11** The applicant must be resident in the local authority's area or about to become resident, or is homeless.
- 7.12** **The key test of eligibility for a Crisis Grant is the severity of the applicant's situation and the likely impact on them and their family.**

## **Income and Capital<sup>33</sup>**

- 7.13** The Regulations require local authorities to take account of this guidance when deciding whether an applicant is eligible for assistance by virtue of income or capital they may hold. As set out in the Regulations, a person should be on a low income to be considered eligible for assistance. **It is not a requirement of the fund to be in receipt of an income related benefit to be eligible for**

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31 The Welfare Funds (Scotland) Regulations 2016 s.10

32 The Welfare Funds (Scotland) Regulations 2016 s.3 and s.5

33 The Welfare Funds (Scotland) Regulations 2016 s.5

**assistance** There are a number of ways to decide whether an individual is on a low income, these are outlined below.

### Income-Related Benefits

**7.14** If the applicant is applying for, in receipt of, or entitled to one of the following income related benefits, the condition can be considered as having been satisfied. It should be noted that not everyone who is entitled to apply for income based benefits does so.

- an income-based jobseeker's allowance (payable under the Jobseekers Act 1995<sup>(34)</sup>)
- Income support under the Social Security Contributions and Benefits Act 1992<sup>(35)</sup>
- Income-related employment and support allowance under Part 1 of the Welfare Reform Act 2007<sup>(36)</sup>
- Universal credit under Part 1 of the Welfare Reform Act 2012<sup>(37)</sup> or
- State pension credit payable under the State Pension Credit Act 2002<sup>(38)</sup>

### Low Income Indicators

**7.15** If an applicant is not currently applying for, in receipt of, or entitled to one of the above income-related benefits, there are a number of other indicators a decision maker can use to help identify those on low incomes. These include:

- a roughly equivalent level of income, as compared to someone receiving one of the above income-related benefits
- an individual in receipt of (or with underlying entitlement to) other benefits, for example, disability related benefits, contributory-based benefits, retirement pension, Carer's Allowance, tax credits, Housing Benefit or Council Tax Reduction
- an individual with exceptional outgoings or additional living costs, e.g. additional costs relating to being disabled, looking after a disabled person or having a large number of dependents
- nature of employment, for example, number of hours typically worked, details of agreement (e.g. whether 'zero-hours') and whether paid the minimum wage

**7.16** This should not be seen as an exhaustive list. An applicant's circumstances must be taken into account when deciding whether they are on a low income. If

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(34) 1995 c.18.

(35) 1992 c.4.

(36) 2007 c.5.

(37) 2012 c.5.

(38) 2002 c.16.

there are other financial issues the local authority thinks should be taken into account, such as experiencing homelessness, being a modern apprentice, having just been released from prison, **or the applicant not having access to their money for some reason** (for example, relating to domestic violence), the local authority may make the judgement that an applicant on a seemingly higher income should still be considered for a grant.

**7.17** The decision maker must be satisfied that the condition of being on a low income is met before proceeding with the application.

**7.18** The applicant is assessed as an individual. Information about a partner and other members of family can, however, be collected and taken into account where relevant, for example, in relation to income or health.

### **If the applicant has savings or capital**

**7.19** A Crisis Grant should take in to account any other resources the applicant can access to tide them over the crisis. This includes any form of capital or financial support, including any benefit income for the applicant or dependents.

**7.20** If an applicant is without a regular income but has capital assets of over £16,000, they will be expected to raise money against those assets. If they are unable to release or raise money on the assets immediately, but are able to demonstrate that they are taking steps to do so, a Crisis Grant may be appropriate in the interim.

## Exclusions for Crisis Grants<sup>39</sup>

- 7.21** The Regulations specify that the number of awards that any person can receive should normally be limited to three in any rolling 12 month period across all local authorities i.e. if an applicant has received a Crisis Grant from a local authority and subsequently moves to another, they are only eligible for a further two grants from the new local authority. The start date of a rolling 12 month period is measured from the date of decision.
- 7.22** If an applicant has received three awards in a 12 month rolling period, any subsequent applications need not be considered beyond stage one of the decision making process, *except* to ascertain whether an exception should be made to the three awards in a 12 month period restriction. Where a person is part of a couple, each partner can receive three grants in a 12 month rolling period.
- 7.23** Welfare fund grants are intended to meet occasional or short term needs and cannot provide an alternative source of regular income. The Regulations do allow local authorities to use their discretion to allow more than three awards in **exceptional circumstances**. Where repeated applications are received for the same reasons, the decision maker should consider whether these circumstances are now normal for the applicant and whether they are common for those on a low income or exceptional compared to the previous applications. Where additional circumstances have been given applicants would normally be able to evidence no fault on their part. In these cases, local authorities will wish to seek additional evidence and/or support the applicant to identify and address any underlying problems which are resulting in repeated crisis.

### Rates for crisis grant awards for living expenses

- 7.24** The amount that a person is awarded for living expenses should normally be calculated in the following way. However, these rates are indicative and just a guide. Local authorities should take the circumstances of the applicant into account when assessing an application to ensure that the award meets the applicant's needs. This could result in an award being made at a rate which is more or less than the Income Support rate providing the award will meet the applicant's needs.
- **For applicants who are non-householders** – 30% of the Income Support personal allowance rate plus the full rate of the Income Support allowance rate for each dependent child on a pro rata basis for the number of days until their next benefit payment is due.

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<sup>39</sup> The Welfare Funds (Scotland) Regulations 2016 s.8 and s.9

- **For applicants who are liable for rent/mortgages etc. or applicants who are without accommodation e.g. sofa surfing or sleeping rough** - 60% per cent of the Income Support personal allowance rate plus the full rate of the Income Support allowance rate for each dependent child on a pro rata basis for the number of days until their next benefit payment is due.

**7.25** A dependent child is defined as being 16 or under, or aged 17-19 and still in full time education, or included on their parent's benefit claim. They need not be living with the applicant all of the time. A child who has shared care arrangements may be considered to be dependent. Where the child is dependent on the applicant, they would usually be in receipt of child benefit for him or her but there may be situations where this is not the case. For example, child benefit may not be in payment if the applicant is a kinship carer or in cases of shared care where the other parent collects the benefit. A dependent child may include an unborn child, once the pregnancy has advanced to 24 weeks. The local authority may use discretion to reduce the award where there is a very large family and the award seems out of proportion with likely living costs.

### **What Constitutes an Emergency?**

**7.26** An emergency is a circumstance of pressing need which requires immediate action. The grant is to pay for expenses to get out of an emergency situation rather than costs from a past emergency which has now been resolved. How the emergency came about is not relevant, even if the applicant might be judged to have caused it or to have been able to avoid it. The same circumstances may constitute an emergency for one person and not for another because of their ability to cope with them. For example, an able bodied young person may be able to manage in a situation where an older or disabled person could not.

**7.27** The following are **examples** of what might be considered to be an emergency and for which a grant for living expenses may be awarded:

- where an unexpected expense has resulted in all the applicants benefit or income being spent, for example, travelling to hospital to visit a sick child
- where money has been lost or stolen and living expenses are required
- where there is, or has been, a breakdown of relationships within the family, perhaps including domestic abuse
- when a person has nowhere to stay and may resort to rough sleeping
- when a person is stranded away from home without any means to get back
- when an applicant is fleeing domestic abuse and needs immediate help
- when the applicant is a grandparent or other relative who is in work but has taken on care of a child/children, and a transfer of the benefits in respect of the children is pending

- when the applicant has received the outcome of a 'fit for work' assessment for Employment Support Allowance, is not in receipt of benefits and has appealed this decision
- when the applicant has a short term gap in regular income, for example, due to redundancy or a significant change in working pattern

### **What Constitutes a Disaster?**

**7.28** Disasters are events of great or sudden misfortune. They will normally be unforeseen and result in significant damage to, destruction or loss of, possessions or property. The following are **examples** of what might be considered to be a disaster, and for which a grant for living expenses and household goods may be awarded:

- a serious flood or fire, causing substantial damage
- loss or destruction to possessions or property for example due to gas explosion or a chemical leak

**7.29** These are just examples, a grant would not be awarded in all of these cases. If a situation is not mentioned above, it does not mean that an applicant should not be helped.

### **What support will be given**

**7.30** Applications for Crisis Grants can be made for living expenses, for example, to help pay for essentials like food and heating. Where the application is for items following a disaster, example items are as per Community Care Grants at paragraph 8.38.

**7.31** There should be no minimum amount for a Crisis Grant.

### **Target Processing Times**

**7.32** The Regulations require local authorities to make a decision on Crisis Grant applications **immediately** after the local authority has received all information allowing a decision to be made, and in any event, no later than the end of the next working day<sup>40</sup>.

**7.33** A working day is defined as being between 9.00am and 4:45pm. If an application is received after 4.45pm, it should be treated as being received on the next working day. A working day does not include weekends and bank/public holidays.

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<sup>40</sup> The Welfare Funds (Scotland) Act 2015 s.4(3)

- 7.34** If a local authority is still awaiting a piece of information they consider to be relevant to the decision, a decision **must** be made by close of business on the day following receipt of an application. This means that a decision is made at the end of the day following receipt of the application *on the balance of probability*, based on the information held at the time.
- 7.35** Where an application is for living expenses and processing takes more than 24 hours, the award should reflect the need at the time of application rather than at the time of payment. For example, if an applicant applies for living expenses for four days and it takes more than 24 hours to process the application, the award should be for four days rather than for three.
- 7.36** Processing times should be measured from the date of receiving a completed application to the date the award is made. Local authorities should consider whether it is possible and appropriate for them to offer an out of hours service for evenings and weekends depending on what other services are available locally.

## 8. COMMUNITY CARE GRANTS<sup>41</sup>

- 8.1** Community Care Grants help people live independently, or continue to live independently, preventing the need for institutional care.
- 8.2** For the purpose of Community Care Grants, examples of institutional care settings applicants may be coming from, or at risk of going to, include:
- hospital or other medical establishment
  - care home
  - hostel or shelter, including women's aid
  - staff intensive sheltered housing
  - residential or other forms of local authority care
  - prison or detention centre
  - supported accommodation – including care leavers in supported accommodation
- 8.3** The above list is not exhaustive. In considering an application, the threat of care need not be immediate. It may be a logical consequence of a worsening of a condition or that the applicant would not be able to maintain a settled home in the community without the items that they are applying for.
- 8.4** Community Care Grants should be made in a timely manner to enable applicants to receive the goods they need to allow them to move into new accommodation. Where an applicant has requested a cooker and/or a bed, consideration should also be given to whether there is a need for pots and pans and/or bedding in order for the applicant to use any item awarded.
- 8.5** There are five circumstances in which a Community Care Grant may be awarded.

**(1) To enable qualifying individuals who are leaving care or imprisonment to establish or maintain a settled home, where without a grant there is a risk that the individual will not be able to do so<sup>42</sup>**

- 8.6** Applicants may be awarded a Community Care Grant if they are leaving accommodation in which they received significant and substantial care, supervision or protection and are establishing themselves in the local community. They should normally have been receiving care for a period of three months or more, or have a pattern of frequent or regular admission to

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<sup>41</sup> The Welfare Funds (Scotland) Regulations 2016 s.3 and s.3

<sup>42</sup> The Welfare Funds (Scotland) Regulations 2016 s.6(4)(a)

institutional or residential care clearly linked to the nature of the applicant's disability or circumstances.

- 8.7** If an applicant is looking after someone and the local authority agrees that a contribution to their expenses will help establish the person they care for in the community, then they may also be awarded a Community Care Grant. For example, if they have to move home to look after someone in these circumstances, then they may be given help with things like removal expenses, travel costs or connection charges for gas and electricity. The applicant needs to be eligible for a grant, but the person they are caring for need not.
- 8.8** Applicants should be permitted to apply for a Community Care Grant if they are still in the accommodation providing care, if they expect to be on a low income when they leave. They should be permitted to apply up to eight weeks before they are discharged, but the local authority may choose to defer payment of any grant awarded to help set up home until nearer the time of leaving care or to make a decision in principle (see paragraph 8.38), payable if certain conditions are met.

**(2) To enable qualifying individuals to maintain a settled home, where without a grant there is a risk of the individual needing to go into a care institution<sup>43</sup>**

- 8.9** Applicants may be awarded a Community Care Grant if this will help them to stay in the community, rather than enter accommodation to receive care. One of the factors the local authority will wish to consider is how immediate the likelihood is of going in to such accommodation, and whether the type of item or service requested would prevent this happening. It is difficult to set boundaries around what constitutes an immediate risk and what should be taken into account, as each application is different and should be considered on its own merit based on the facts provided.
- 8.10** The following are examples of when a Community Care Grant may be awarded:
- helping with expenses or provision of goods, such as cookers and fridges, to avoid becoming homeless or having to move out of their home in to temporary accommodation
  - helping with expenses for minor improvements to a home to maintain living conditions, except where the property is owned by a local authority or Social Landlord who maintains property on the tenant's behalf (see exclusions at Annex A)
  - enabling an applicant to move to care for someone to enable them to stay in their home, including travel expenses

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<sup>43</sup> The Welfare Funds (Scotland) Regulations 2016 s.6(4)(b)

- enabling the applicant to move to more suitable accommodation, to prevent admission to care
- enabling someone to move nearer to someone who can offer them support, to prevent admission to care

**8.11** Applicants may be awarded a Community Care Grant if they are caring for someone and the local authority agrees that a payment to the carer will help the person they care for to remain in the community rather than entering accommodation to receive care.

**8.12** An applicant might need to move to be near, or to live with, the person who requires additional support and may be awarded removal expenses or travel costs. To be awarded a grant, an applicant needs to be eligible for a grant, but the person they are caring for need not.

**(3) To enable qualifying individuals to establish or maintain a settled home after being homeless, or otherwise living an unsettled way of life<sup>44</sup>**

**8.13** If an applicant is about to move in to their own accommodation following a period of homelessness, or a period where they have not had a settled address, they may be awarded a Community Care Grant. The applicant does not need to be statutorily regarded as homeless. There are two conditions for receipt of the grant:

- **the applicant must be vulnerable** - this is determined by whether or not they have one or more of the vulnerabilities at Annex C, in addition to homelessness which is considered at stage 3 of the decision making process
- **the applicant should be receiving, have just received, or be about to receive support to sustain their tenancy (formerly referred to as a re-settlement programme)** - this could include support such as budgeting, money management, shopping and cooking or assisting the applicant in developing the skills needed to sustain the tenancy

**8.14** The grant may be given to help the applicant set up home in his or her own accommodation, for example, but not exclusively, if they:

- have been living in a hostel but have now secured a tenancy and support to sustain the tenancy
- have a history of homelessness and have secured a tenancy along with a place on a programme of support to help them develop the skills to sustain the tenancy

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<sup>44</sup> The Welfare Funds (Scotland) Regulations 2016 s.6(4)(c)

- are a young person leaving residential supported accommodation who is being supported to establish an independent tenancy
- have been in temporary accommodation and are now moving to settled accommodation, and have support in place to help them sustain their tenancy

**(4) To enable qualifying individuals to maintain a settled home in a situation where that individual, or another individual in the same household, is facing exceptional pressure<sup>45</sup>**

**8.15** Applicants may be given a grant to meet needs that arise out of exceptional pressure on the applicant or a member of their family. Exceptional pressure is a greater pressure than you would be under just from living on a low income which is impacting negatively on their ability to live in a settled home. All families, especially those on low income, face pressure at various times, so that in itself is not a reason to award a Community Care Grant. A Community Care Grant, however, may be awarded to ease exceptional pressures on a family. What could be considered as exceptional pressure to one person may be different to another depending on their personal level of resilience. Decision makers should consider the degree of this pressure in terms of its effect on the individual family as well as the type of pressure, or how common it is.

**8.16** Some examples (this is not an exhaustive list) of what might be judged to be exceptional pressure are:

- to meet the needs of a child where there is a risk to their health or wellbeing, for example, as a result of an incident connected with chronic illness, accident or disability
- there has been a breakdown of relationships, perhaps including domestic abuse, resulting in a move or the need to move
- a family which has previously lived in 'temporary accommodation' who has been granted a tenancy and need help to set up home
- there is a serious problem with accommodation, which is resulting in the need for minor repairs, replacement furniture or a move
- a person affected by the UK Government's changes, from 1 April 2017, to entitlement to housing costs within Universal Credit for 18-21 year olds (see the Scottish Government's separate advice note "Scottish Welfare Fund: Assistance with Housing Costs: 18-21 year olds" , available from end April 2017).

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<sup>45</sup> The Welfare Funds (Scotland) Regulations 2016 s.6(4)(d)

**(5) To assist a person to care for a qualifying individual who has been released from prison or a young offenders' institution on temporary release<sup>46</sup>**

- 8.17** A Community Care Grant can be awarded to assist a person to care for a qualifying individual who has been released from prison or a young offenders' institution on temporary release. The qualifying individual in this circumstance must have been in prison, or a care institution, for (a) a period of at least three months any part of which falls within the nine months preceding the date of application or (b) two or more separate periods within that nine month period<sup>47</sup>.
- 8.18** Temporary release is when a prisoner is given unescorted access to the community. This can be for up to seven nights, excluding travelling time, and may be repeated in the period prior to release to help prepare prisoners for their return to the community.
- 8.19** The applicant will be the person the prisoner is staying with, for example their family. The applicant needs to meet the eligibility criteria, but the prisoner does not, so there is no need to establish the prisoner's financial circumstances. The grant is awarded to pay for living expenses while the prisoner is on temporary release, for example, food or additional fuel consumption. Awards for living expenses should be paid at single person non-householder rate.

### **Eligibility**

- 8.20** The Regulations require that applicants must be aged 16 or over and be on a low income<sup>48</sup>.
- 8.21** The applicant must be resident in the local authority area, or about to become resident or homeless.
- 8.22** **The key test of eligibility for a Community Care Grant is that the application is for someone setting up or maintaining an established home in the community. There must be some risk that this may not be possible without a grant. That risk does not need to be immediate for an applicant to qualify, and decision makers should use their discretion in deciding what constitutes a 'risk' or 'exceptional pressure'.**

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46 The Welfare Funds (Scotland) Regulations 2016 s.6(4)(e)

47 The Welfare Funds (Scotland) Regulations 2016 s.6(5)(a)

48 The Welfare Funds (Scotland) Regulations 2016 s.3 and 5

## Income and Capital

**8.23** The Regulations require local authorities to take account of this guidance when deciding whether an applicant is eligible for assistance by virtue of income or capital they may hold. As set out in the Regulations, a person should be on a low income to be considered eligible for assistance. **It is not a requirement to be in receipt of an income related benefit to be eligible for assistance from the fund.** There are a number of ways to decide whether an individual is on a low income, these are outlined below.

### Income-Related Benefits

**8.24** If the applicant is applying for, in receipt of, or entitled to one of the following income related benefits, the condition can be considered as having been satisfied. It should be noted that not everyone who is entitled to apply for income based benefits does so.

- an income-based jobseeker's allowance (payable under the Jobseekers Act 1995<sup>(49)</sup>)
- Income support under the Social Security Contributions and Benefits Act 1992<sup>(50)</sup>
- Income-related employment and support allowance under Part 1 of the Welfare Reform Act 2007<sup>(51)</sup>
- Universal credit under Part 1 of the Welfare Reform Act 2012<sup>(52)</sup> or
- State pension credit payable under the State Pension Credit Act 2002<sup>(53)</sup>

### Low Income Indicators

**8.25** If an applicant is not currently applying for, in receipt of, or entitled to one of the above income-related benefits, there are a number of other indicators a decision maker can use to help identify those on low incomes. These include:

- a roughly equivalent level of income, as compared to someone receiving one of the above income-related benefits
- an individual in receipt of (or with underlying entitlement to) other benefits, for example, disabled related benefits, contributory-based benefits, retirement pension, carers allowance, tax credits, housing benefit or council tax reduction

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(49) 1995 c.18.

(50) 1992 c.4.

(51) 2007 c.5.

(52) 2012 c.5.

(53) 2002 c.16.

- an individual with exceptional outgoings or additional living costs, e.g. additional costs relating to being disabled, looking after a disabled person or having a large number of dependents
- nature of employment, for example, number of hours typically worked, details of agreement (e.g. whether 'zero-hours') and whether paid the minimum wage

**8.26** This should not be seen as an exhaustive list. An applicant's circumstances must be taken into account when deciding whether they are on a low income. If there are other financial issues the local authority thinks should be taken into account, such as experiencing homelessness, being a modern apprentice, having just been released from prison, **or the applicant not having access to their money for some reason** (for example, relating to domestic violence), the local authority may make the judgement that an applicant on a seemingly higher income should still be considered for a grant.

**8.27** The decision maker must be satisfied that the condition of being on a low income is met before proceeding with the application.

**8.28** The applicant is assessed as an individual. Information about a partner and other members of family, however, can be collected and taken into account where relevant, for example, in relation to income or health.

#### **If the applicant has savings or capital**

**8.29** A Community Care Grant should not be awarded if the applicant or their partner has savings of:

- over £700 if they are below pension age
- over £1200 if the applicant is above pension age

**8.30** The main examples of capital to be taken into account, though not an exhaustive list, are:

- current accounts
- savings accounts
- national savings certificates
- fixed term investments
- fixed bonds
- endowment policies which are not held as security over property
- friendly society or other deposit accounts
- trust funds
- property other than the applicant's home

**8.31** Certain capital assets should be disregarded. These categories of capital include:

- business assets
- rights in schemes such as pension schemes, life insurance and funeral plans
- amounts earmarked for special purposes such as essential repairs to property or money set aside by parents or carers for identified future care needs of a disabled child
- payments made for arrears of, or compensation for late payment of, social security benefits for a period of up to 12 months
- payments made for expenses relating to supporting children, for example child maintenance
- a recent grant made by any organisation for a specific purpose or purchase relating to a disabled child or person
- benefits which have been awarded to assist with additional costs relating to disability, such as Disability Living Allowance, Personal Independence Payment, Armed Forces Independence Payment and Attendance Allowance

**8.32** Other benefit income should be disregarded for the purposes of calculating savings for a Community Care Grant application if they are earmarked for a specific purpose, for example, living expenses or a specific bill payment. Types of income that should be disregarded in identifying available income are at Annex B. Only money in hand at the time of the application should be considered, not any future payments that will be made.

**8.33** Applicants are not required to have made an application to DWP for a Budgeting Loan before they apply for a Community Care Grant.

### **Exclusions for Community Care Grants**

**8.34** Local authorities are not required to make a decision on an application for a Community Care Grant if the applicant is:

- resident in a care home, *unless* there are plans for discharge within eight weeks
- a hospital in-patient *unless* there are plans for discharge within eight weeks
- lawfully detained *unless* there are plans for release within eight weeks, or a release on temporary release
- a member of a religious order who is being fully maintained by it

**8.35** The time limits mentioned above also apply to decisions in principle (see paragraph 8.41 of this guidance).

**8.36** The Regulations specify that the length of time the applicant has received care should be:

- a period of three months or more, any part of which falls within the period of nine months preceding the date of application **or**
- the applicant has been in a care institution for two or more separate periods within the nine months preceding the date of application<sup>54</sup>

**8.37** In the case of prisoners, the minimum period served in civil custody (rather than sentence) should be three months. Local authorities can use their discretion to make an award for cases that fall a few days short of the minimum period served<sup>55</sup>.

**8.38** There is no limit on the number of Community Care Grants that can be awarded to an individual in a year. However, the limitations on repeat applications as described in paragraph 6.1 of this guidance apply<sup>56</sup>.

#### What support will be given

**8.39** Applications for Community Care Grants are for items and awards may be in cash, cash equivalent or in kind. Awards for items should include delivery and installation or fitting fees. Some examples of items for which an award might be made are:

- furniture (like settee, armchair, carpets, curtains, wardrobe)
- household equipment (like cooker, fridge, washing machine, bed, bedding, clothing)
- travel costs
- removal expenses
- storage charges
- installation charges for cookers and washing machines
- connection charges for gas and electricity
- repair of broken or faulty items or appliances

**8.40** In making awards for storage charges, local authorities will need to balance the likely cost of storing goods against the cost of disposing of them and buying new goods when the applicant secures a tenancy.

**8.41** Local authorities should make an award in principle, for example subject to the successful agreement of a tenancy, to be fulfilled at a later date or where the grant may be paid on leaving prison, where this is appropriate to the applicant's

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54 The Welfare Funds (Scotland) Regulations 2016 s.6(5)

55 The Welfare Funds (Scotland) Regulations 2016 s.6(5)(a)

56 The Welfare Funds (Scotland) Regulations 2016 s.8

circumstances. This is to allow applicants and their support workers to plan ahead in securing furniture. Local authorities need not make a decision in principle unless an action, such as release from prison, or the start of a tenancy, is planned within an eight week period. The level of priority that should be applied is the level of priority in place at the time the decision was made, unless a change has been made that would benefit the applicant (for example, a lower priority rating is now in place).

### **Target Processing Times**

- 8.42** The Regulations require that decisions on Community Care Grants must be made within 15 working days after the local authority has received all the information allowing a decision to be made<sup>57</sup>.
- 8.43** A working day is defined as between 9.00am and 4.45pm. If an application is received after 4.45pm, it should be treated as being received on the next working day. A working day does not include weekend and bank/public holidays.
- 8.44** Processing times should be measured from the date of receiving a completed application to the date the award is made.

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<sup>57</sup> The Welfare Funds (Scotland) Regulations 2016 s.13(3)

## 9. REVIEW

### First tier Review<sup>58</sup>

- 9.1** If an applicant disagrees with the outcome of their Welfare Fund application the Act requires local authorities to review the decision. The Regulations provide that applicants may seek, within 20 working days of being notified of a local authority decision, a review of the decision. Local authorities must, under the Regulations, arrange for a review of the decision to be undertaken by a decision maker who was not involved in making the original decision.
- 9.2** The Regulations allow a local authority to accept a review request made after 20 working days where it considers there are good reasons for doing so.
- 9.3** The local authority should include the process for review in the information on the Welfare Funds pages on their website, and should ensure decision letters contain information on the review process.
- 9.4** The decision on a first tier review replaces the original decision on the case, which will no longer be valid. The Regulations state that a review by the local authority may not result in assistance awarded being reduced or withdrawn.
- 9.5** The first tier review by the local authority offers an opportunity to “re-make” the original decision on a case, based on a thorough look at the evidence and any new information which becomes available.
- 9.6** The person carrying out the review will need to re-consider the merits of the case. They may need to gather additional information or evidence to do this.
- 9.7** The applicant can ask for a first tier review if they want the decision that has been made on their case to be changed, for example, but not exclusively based on:
- not agreeing with the decision on eligibility, for example, due to repeat applications or the assessment of their income (stage 1 of decision making)
  - not agreeing with the decision on qualifying circumstances, for example, the decision maker did not judge them to be in crisis but they disagree (stage 2 of decision making)
  - of the opinion that the priority level allocated to their application was not appropriate/should have been higher (stage 3 of decision making)
  - of the opinion that insufficient information was gathered during the application process to make a decision

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<sup>58</sup> The Welfare Funds (Scotland) Regulations 2016 s.14

- the application having been refused on the grounds that there is insufficient evidence, but the applicant considers that there was
- not agreeing that the support they have been provided with is appropriate to their needs, for example, they were awarded items and not money or they do not think that the money they were awarded was enough to buy what they need
- considering that there has been an error or failure in the decision making process, for example, a mistake in assessing the facts, or a failure to take into account a matter relevant to the decision

**9.8** Review cannot be sought for policy decisions such as the level of priority set for awards in that period (stage 4 of decision making) – see financial management at Section 3.

**9.9** Applications for review should:

- be made within 20 working days of the original decision, though the local authority may use its discretion to allow later applications, for example, when illness has prevented an application being made
- be made in writing and be signed by the applicant, unless the local authority considers there are exceptional circumstances, for example, disability, health issue or problems with literacy
- contain the reason for requesting a review, a reference number or date of decision and any other additional information to support the case

**9.10** Reviews of Crisis Grant applications should be carried out as soon as possible, recognising the circumstances of the applicant. The maximum processing time allowed for in the Regulations, for a first tier review of a Crisis Grant application, is no later than the end of the second working day after that on which the request was received. The Regulations provide that the maximum processing time for a first tier review of a Community Care Grant application should be no later than the end of the fifteenth working day after that on which the request was received.

**9.11** Applicants should be notified in writing of the result of the review, giving reasons for the decision that was made<sup>59</sup>. In urgent cases, the result should be given as soon as possible, by phone, and followed up in writing according to the usual arrangements for notifying decisions.

**9.12** The reviewing officer should feed back to the decision maker on the outcome of the review where appropriate and any key points relevant to future decision making. The review process should therefore help drive forward improvement and consistency in decision making.

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<sup>59</sup> The Welfare Funds (Scotland) Regulations 2016 s.15

## How to treat additional information – as part of First Tier Review

**9.13** The decision maker should ensure that they have all the necessary information before reaching a decision. Receiving new information can sometimes prompt other questions. Where new information becomes available to the local authority that may have led the decision maker to make a different decision if they had been aware of it, that information should be acted on as soon as possible. If new information is received as part of a request for a first tier review and the decision maker judges that an award should be made as a result of it, they should make the award straight away and let the applicant know, rather than waiting for any scheduled review meeting or process. The review process should be suspended but the papers held, in case the applicant still wants to pursue a review.

## A Change of Circumstances Identified as Part of a First Tier Review

- 9.14** Similarly, if the circumstances of the applicant have changed since the date of the original application so that the decision maker would make a different decision in the new situation, the decision should be re-made as soon as possible. A change of circumstances is a change to the situation of the applicant which is relevant to the decision on the items they have applied for. This is information that could not have been taken in to account in the original decision as it had not yet taken place, so the case should be considered as a new case.
- 9.15** Examples include: a new health condition or deterioration in health which makes the applicant more vulnerable, or a family breakdown which means that they no longer have access to support. The case should be entered on the system as a new case, using existing information and any additional information that needs to be gathered as a result of the change of circumstances. Again, the review process should be suspended but the papers held, in case the applicant still wants to pursue a review. This is to avoid artificial inflation of the number of reviews as a result of changes of circumstances.
- 9.16** If a review decision has been correctly reached but a change of circumstances occurs after the review so that the applicant is facing a different situation, then the applicant should be advised to re-apply.

## 10. THE ROLE OF THE SCOTTISH PUBLIC SERVICES OMBUDSMAN (SPSO) – INDEPENDENT REVIEW AND COMPLAINTS HANDLING

### Independent Second Tier Review<sup>60</sup>

**10.1** An applicant who is dissatisfied by the outcome of a review by a local authority can ask the SPSO to carry out an independent review. The SPSO's service is free, independent and impartial. More information is available on their website ([www.spsso.org.uk/scottishwelfarefund](http://www.spsso.org.uk/scottishwelfarefund)) or by phoning them on 0800 014 7299

### SPSO Complaint Handling

**10.2** If an applicant has a complaint about the way their application was handled, the SPSO may also be able to consider this (whether as part of a review or otherwise). Although the local authority should generally handle a complaint through the model Complaints Handling Procedure before making a referral to the SPSO, there may be times when SPSO can consider a complaint sooner, for example, the local authority considered the issues complained about during a first tier review. If you have any questions about this you should contact the SPSO directly.

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60 The Welfare Funds (Scotland) Act 2015 s.7 – s13

## 11. DATA MONITORING

### Regular Statistical Monitoring

- 11.1** The Scottish Government and local authorities are working together to collate and analyse quantitative data about the operation of individual Welfare Funds.
- 11.2** Local authorities should work with software providers to make arrangements to capture the agreed data set as specified at:
- <http://www.gov.scot/Topics/Statistics/15257/1529/swf-dataspec>
- 11.3** This data should be collected continuously through case management systems and sent to the Scottish Government in the prescribed format as requested.
- 11.4** The Scottish Government publishes statistics about the Scottish Welfare Fund at:

<http://www.gov.scot/Topics/Statistics/Browse/Social-Welfare/swf>

## ANNEX A - EXCLUSIONS FROM CRISIS AND COMMUNITY CARE GRANTS<sup>61</sup>

A person should not be awarded a Crisis Grant or Community Care Grant for a range of excluded needs:

Excluded Item	Alternative Source(s) of Assistance
1. A need which occurs outside the United Kingdom.	<a href="https://www.gov.uk/browse/abroad/living-abroad">https://www.gov.uk/browse/abroad/living-abroad</a> <a href="https://www.gov.uk/browse/visas-immigration">https://www.gov.uk/browse/visas-immigration</a>
2. An educational or training need including: clothing and tools, distinctive school uniform or sports clothes for use at school, equipment to be used at school, travelling expenses to or from school, school meals taken during school holidays by children who are entitled to free school meals.	School meals and clothing grants – contact your council regarding criteria and eligibility.
3. Expenses in connection with court (legal proceedings) such as legal fees, court fees, fines, costs, application costs for bankruptcy/sequestration, damages, subsistence or travelling expenses.	<a href="https://www.scotcourts.gov.uk/rules-and-practice/forms/fee-exemption-forms">https://www.scotcourts.gov.uk/rules-and-practice/forms/fee-exemption-forms</a> <a href="http://www.slab.org.uk/public/index.html">http://www.slab.org.uk/public/index.html</a>
4. Removal or storage charges if the person is being re-housed following a compulsory purchase order, a redevelopment or closing order or a compulsory exchange of tenancies.	Budgeting Loans can help with removal costs. ( <a href="https://www.gov.uk/budgeting-help-benefits">https://www.gov.uk/budgeting-help-benefits</a> ) Local charitable organisations.
5. A television or a radio (except where the applicant has a particular need for one, for example, because of limited mobility or isolation) or a licence, aerial or rental costs, costs of purchasing, renting or installing a telephone (unless this is for the purpose of a personal alarm), mobile phones and any call charges.	n/a.

<sup>61</sup> The Welfare Funds (Scotland) Regulations 2016 s.11

6. Repair to local authority property or the property of social landlords who maintain property on behalf of the tenant.	Approach your landlord/council regarding any repairs required.
7. Rent in advance, which can be provided by a Budgeting Loan or discretionary housing payments.	Budgeting Loan ( <a href="https://www.gov.uk/budgeting-loans/overview">https://www.gov.uk/budgeting-loans/overview</a> ), or contact your council for a discretionary housing payment.
8. Debts (excluding pre-paid fuel meters), debt interest, application costs for bankruptcy/sequestration debts to government departments or local authority tax, Scottish Water and waste charges, arrears of local authority tax or community water charges.	Contact your council, a national organisations such as debt advice, or the Citizens Advice Bureau. <a href="http://www.cosla.gov.uk/councils">http://www.cosla.gov.uk/councils</a> <a href="http://www.stepchange.org/DebtadviceinScotland.aspx">http://www.stepchange.org/DebtadviceinScotland.aspx</a> <a href="https://www.citizensadvice.org.uk/scotland/debt-and-money/help-with-debt/">https://www.citizensadvice.org.uk/scotland/debt-and-money/help-with-debt/</a>
9. Any expense which the local authority or other organisation has a statutory duty to meet, for example regular costs for care or housing.	Contact your council.
<p>10. A medical, surgical, optical, aural or dental item or service (note that needs under all of these headings can be provided free of charge by the National Health Service, if you are getting Income Support, income-based Jobseeker's Allowance, Employment and Support Allowance (income-related), or Pension Credit). Medical expenses, treatments, items and medications. The cost of repairs to any item obtained from the NHS are also excluded.</p> <p>Any item which fulfils a medical function or helps a customer with on-going treatment such as a hospital bed for a person being cared for in their own home, would be considered to be a medical item.</p> <p>Where it is unclear whether an item is considered a medical item clarification should be sought via Occupational Health, doctor, nurse or similar bodies.</p>	Contact NHS Scotland. ( <a href="http://www.gov.scot/Publications/2011/03/30092604/0">http://www.gov.scot/Publications/2011/03/30092604/0</a> )

11. Domestic assistance and respite care.	Contact your council or Care Information Scotland. ( <a href="http://www.careinfoscotland.scot/">http://www.careinfoscotland.scot/</a> )
12. Work related expenses.	Contact your employer.
13. Investments.	n/a.
14. Holidays.	n/a.
15. On-going expenses which are, or are likely to become, a feature of expenditure.	On-going expenses such as on-going bills or expenditure fall out-with the scope of assisting with one-off needs.
16. Travelling expenses, with the exception of one-off expenses relating directly to the qualifying criteria, for example travelling expenses to help someone move to a new home where that move is essential to their re-integration in the community, or if a journey is essential in connection with a crisis, exceptional pressure or in support of independent living.	If travelling for medical reasons, assistance can be awarded through the NHS. ( <a href="http://www.gov.scot/Publications/2011/03/30092604/0">http://www.gov.scot/Publications/2011/03/30092604/0</a> )
17. Maternity expenses covered by a Sure Start Maternity Grant.	Information on how to access help with a sure start maternity grant can be found on the gov.uk website: <a href="https://www.gov.uk/sure-start-maternity-grant">https://www.gov.uk/sure-start-maternity-grant</a>
18. Any costs related to a person's funeral.	Information on how to access help with funeral costs can be found on the gov.uk website: <a href="https://www.gov.uk/funeral-payments/overview">https://www.gov.uk/funeral-payments/overview</a>
19. Expenses to meet the needs of people who have no recourse to public funds.	Contact the Home Office for further information.
20. Costs associated with repatriation of a person from Scotland to their home country.	Contact the Consulate or Embassy for the relevant country. <a href="http://europa.eu/youreurope/citizens/national-contact-points/embassies/index_en.htm">http://europa.eu/youreurope/citizens/national-contact-points/embassies/index_en.htm</a> Contact the British Consulate in the relevant country for advice. People who are in the UK unlawfully or their leave has expired should contact the central voluntary departures team to find out what help they can get. <a href="https://www.gov.uk/budgeting-help-benefits">https://www.gov.uk/budgeting-help-benefits</a> Tel: 0300 004 0202 Assisted voluntary return.

	<p><a href="http://www.refugee-action.org.uk/choices">http://www.refugee-action.org.uk/choices</a> Home Office – Central Voluntary Departures Team. <a href="https://www.gov.uk/return-home-voluntarily">https://www.gov.uk/return-home-voluntarily</a></p>
<p>21. Substantial Improvements to private property, for example, external or internal building work, structural work, major roof repairs, central heating installations or replacements, double glazed windows, complete rewiring, external work to link a house up to gas or electricity networks, replacement plumbing, replacement bathrooms, kitchens and any extensive work of a cosmetic nature. This list is not to be considered exhaustive.</p>	<p>Substantial repairs fall out-with the scope of the SWF. Check whether there are other grants or sources of help available via the local authority such as: Local Authority Scheme of Assistance. (<a href="http://www.gov.scot/Topics/Statistics/Browse/Housing-Regeneration/HSfS/SoA">http://www.gov.scot/Topics/Statistics/Browse/Housing-Regeneration/HSfS/SoA</a>) Social Work Services. Occupational Health. Other sources of help available: Help to adapt scheme. (<a href="http://linkhousing.org.uk/what-we-do/help-to-adapt/">http://linkhousing.org.uk/what-we-do/help-to-adapt/</a>) Care and Repair. (<a href="http://www.careandrepairsotland.co.uk/">http://www.careandrepairsotland.co.uk/</a>)</p> <p>Energy grants and ways to improve energy efficiency. (<a href="https://www.gov.uk/energy-grants-calculator">https://www.gov.uk/energy-grants-calculator</a>) Shelter Scotland. (<a href="http://scotland.shelter.org.uk/get_advice/advice_topics/repairs_and_bad_conditions/repairs_if_you_own_your_home">http://scotland.shelter.org.uk/get_advice/advice_topics/repairs_and_bad_conditions/repairs_if_you_own_your_home</a>) Insurance provider. Mortgage lender.</p>
<p>22. Gardening tools.</p>	<p>Budgeting Loans may be able to help with the cost of gardening tools if required to maintain home. (<a href="https://www.gov.uk/budgeting-help-benefits">https://www.gov.uk/budgeting-help-benefits</a>)</p>

## ANNEX B - PAYMENTS TO BE DISREGARDED FOR CALCULATING SAVINGS

These sources of income should normally be ignored in calculating savings:

- Housing Benefit
- Social Fund payments
- Disability Living Allowance (including mobility component), Personal Independence Payments (including mobility component), Armed Forces Independent Payments, Attendance Allowance or equivalents paid through industrial injuries or war pensions schemes
- Payments under Section 12 of the Social Work (Scotland) Act 1968 except where these are made for the same purpose as the application
- Savings for a child or young person who is looked after (under the Looked After (Scotland) Regulations 2009) whether in a junior ISA or other account
- The value of the applicant's home, or premises acquired for occupation by the applicant within the next 6 months
- The value of any premises occupied by a relative or former partner of the applicant.
- The value of any reversionary interest
- The assets of any business owned by the applicant
- Any sum paid to the applicant intended for repair or replacement of personal possessions, or loss or damage to the home.
- Any sum acquired on the express condition that it is used for effecting essential repairs or improvements to the home
- Any personal possessions, except those acquired for the purpose of securing eligibility for a Crisis Grant
- Any payment made under section 22 of the Children (Scotland) Act 1995 unless the payment was made for the same need as the Crisis Grant application
- Any run-on payment of council tax discount or housing benefit
- Any compensation award set aside for the replacement of lost livelihood
- Any integration loan granted under The Integration Loans for Refugees and Others Regulations 2007 (SI 2007/1598).
- Prisoners' discharge grants

## ANNEX C - FACTORS THAT MIGHT INCREASE THE VULNERABILITY OF AN APPLICANT

Some examples of factors that could contribute to a vulnerability which would give an application higher priority are set out below. This is not an exhaustive list and should not be used rigidly as a prioritisation list.

- Frailty or old age, particularly restricted mobility or difficulty performing personal care tasks
- Learning difficulties
- Poor literacy or numeracy skills
- Mental health issues
- Physical impairment or disability, including sensory impairments
- Chronic illnesses
- Terminal illnesses
- Addictions or misuse of alcohol, drugs or other substances
- Being an person with a conviction
- People fleeing domestic abuse
- People facing non-domestic abuse
- Being a young person affected by the UK Government's changes, from 1 April 2017, to entitlement to housing costs within Universal Credit for 18-21 year olds <sup>62</sup>
- Being a young person leaving local authority care or a special residential school
- Being a young person who does not have parents or is unable to live with their parents because it would put them in danger or they have become estranged
- Looking after children for a relative or friend as a kinship carer.
- Being a lone parent
- Children living with young parents aged under 25
- Children living with a disabled adult
- Children living in a large family with three or more children
- Experiencing separation, relationship or family breakdown
- Being a family who has been judged to be facing exceptional pressure.
- Being pregnant, recent childbirth or adopting a child
- Having responsibility as a main care giver
- Homelessness, or repeated homelessness or under threat of homelessness.
- Repeated failed tenancies
- Having an unsettled way of life (living in hostels, sofa-surfing, not having your own address)
- Experiencing eviction or re-possession

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<sup>62</sup> See the Scottish Government's separate advice note "Scottish Welfare Fund: Assistance with Housing Costs: 18-21 year olds", available from end April 2017)

- Experiencing redundancy
- Leaving the armed forces
- A history of insecure work
- Being recently bereaved (immediate/close family member/spouse/partner)

## ANNEX D

### SCOTTISH WELFARE FUND

#### TEMPLATES FOR RECORDING DECISIONS

##### a) Template for Recording an Scottish Welfare Fund Decision

Name:

Case Number:

Grant Applied For:

Application Date:

Name of the Officer who made the decision:

Date of decision:

Summary of application	
Summary of key facts taken in to account in making the decision	
Any information gathered that was actively disregarded	
How has applicant been given the opportunity to put their case?	

Any other support offered to or received by the applicant as a result of their application.	
Any other relevant information	
Decision made by the decision maker	
Reasons for this decision, how the evidence has been weighed.	

Decision makers should clearly document the reasons for their decisions. This includes how they have used or evaluated the evidence to decide on the eligibility and priority of the application. The Scottish Welfare Fund is a discretionary scheme. Decision makers do not have to follow the guidance but should document their reasons as part of their normal recording if they decide to depart from it, in case a review is requested and to satisfy audit requirements.

Decision makers should make sure that they:

- have considered the Scottish Welfare Fund guidance and any local policies relating to it
- have followed any local processes relating to the processing of applications, for example in notifying the applicant of the outcome of an application
- base their decisions on accurate and up to date information
- have taken all the relevant information in to account and have not taken any irrelevant information in to account
- seek information to fill any gaps in evidence and record information gathered
- give the applicant an opportunity to make their case
- have properly used their discretion to consider the case rather than following guidance or policy in an unquestioning way
- make a reasonable and fair decision, based on all the facts of the case, in keeping with the laws of natural justice
- keep an open mind and focus on the need identified by the applicant and the overall objectives of the Scottish Welfare Fund.

It is recognised that for the most part such record of decisions reached will be recorded on supporting IT systems in place.

## ANNEX E

### b) Template for Recording a First Tier Review

Name:

Case Number:

Grant Applied For:

Date Review Request Received:

Application Date:

Name of the Officer who undertook the review

Date first review carried out:

Summary of application	
Summary of key facts taken in to account in making the decision	
Any information gathered that was actively disregarded	
How has applicant been given the opportunity to put their case?	

Reason given to the applicant for the decision made:	
Any other support offered to or received by the applicant as a result of their application.	
Any other relevant information	
Decision of the First Tier Review Decision maker	
Reasons for this decision	

Review Officers are advised to tell the original decision maker why they are revising a decision if they decide to do so, to improve consistency in decision making and to share best practice.



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