

**EQUALITY, POVERTY AND SOCIAL SECURITY**

# **Consultation on regulations and statutory guidance under the Welfare Funds (Scotland) Act 2015**

The Scottish Welfare Fund provides grants to people on low incomes. New legislation, the Welfare Funds (Scotland) Act 2015, places the Fund into law, and comes into force on 1 April 2016. Between 27 May 2015 and 21 August 2015, the Scottish Government consulted on draft regulations and statutory guidance under the Act.

Sixty-one responses were received – 53 from organisations and 8 from individuals. In addition, two further responses were submitted using an Easy Read version of the consultation questionnaire. Key points from the analysis of the responses are summarised here.

## **Background**

The Scottish Welfare Fund (or the Fund) was established in April 2013, replacing elements of the Social Fund abolished by the Department for Work and Pensions. It is a national scheme, delivered on behalf of the Scottish Government by all 32 local authorities.

Two types of grant are available through the Fund: community care grants and crisis grants. Community care grants are given to help people to live independently, preventing the need for institutional care, while crisis grants help those facing disaster or emergency situations. Both are intended for people on low incomes. As they are grants, they do not need to be repaid by the recipient. Since April 2013, the Scottish Welfare Fund has helped more than 164,000 households.

The Fund is underpinned by the first substantive example of social security-related legislation in Scotland, which comes into force on 1 April 2016. The Welfare Funds (Scotland) Act 2015 places a statutory duty on each local authority to maintain a Welfare Fund.

The consultation sought views on the draft regulations and statutory guidance under the Act.

## Consultation respondents

The main consultation received 61 responses – 53 from organisations and 8 from individuals. The Easy Read consultation received two responses – one from an individual and one from an organisation. Organisational respondents included third sector and equality organisations (21); local authorities (18); and housing organisations (8). Other organisational respondents (6) included academic, NHS, legal organisations and professional associations. The Scottish Public Services Ombudsman also submitted a response.

## Main findings

### Defining low income

The consultation sought views on the methods that should be used by local authorities to decide whether an applicant is on a low income. Three options were set out in the consultation paper. Option 1 was the status quo (decision makers make a judgement on the basis of information given by the applicant and information in their own systems); Option 2 was that local authorities should use the same list of 'approved' ways for deciding whether a person was on a low income; and Option 3 involved setting a low income threshold, above which no payments would be made.

A majority of respondents chose Option 2. This was seen as providing the best balance between consistency and transparency on the one hand, and the ability to exercise discretion on the other. Option 3 was the least popular option.

Respondents were almost unanimous in wanting some level of discretion to remain in decision making. There was also general agreement that being in receipt of (or being entitled to) benefits should not be a prerequisite to applying for a grant.

### Limiting repeat awards

The consultation proposed limiting the number of crisis grant awards to three per year per household (a change from the current three per year per individual applicant). This proposal was intended to address a perceived unfairness in that couples sharing a household might be able to receive six awards in a year, whereas a single person (including a single parent) would only be able to receive three. There was a proposal to similarly limit community care grants, and respondents were asked what they thought the consequences would be of these two changes.

In relation to the proposal to limit crisis grants, local authorities were more likely than other respondents to say that the proposed change would be fairer, increase consistency and avoid discrimination against single parents in particular. However, around half of local authorities also identified possible adverse consequences. At the same time, third sector respondents were almost unanimous in identifying *only* negative consequences from the proposal, highlighting a range of vulnerable

groups who could be adversely affected (e.g. women, adults with disabilities, care leavers, people with addictions or cognitive impairments, etc.).

Regarding the proposal to limit community care grants to three per household per year, respondents highlighted a range of reasons why an individual or household might need more than three community care grants in a year, and therefore, there was little support for this proposal.

A third proposal suggested a limit on the number of times that a community care grant could be given for the *same item* in a set period of time. Respondents were asked if they thought there should be such a limit, and if so, what the limit should be.

Respondents were divided in their views on this proposal – 51% agreed and 49% disagreed. However, irrespective of whether they agreed or disagreed, respondents often gave examples of circumstances in which an individual might legitimately need to apply for the same item again in a relatively short period of time. These circumstances were thought to be uncommon, and so those who agreed with this proposal thought that local authorities should be able to award the same items again in exceptional cases.

Suggestions about the period of time for which the limit should apply ranged from 12 months to 36 months, and it was often suggested that any limit should apply only to larger items, including white goods which would, in any case, ordinarily be under warranty.

### **Prioritisation of families facing exceptional pressure**

The consultation sought views about whether families facing exceptional pressure should be given priority in decisions on crisis grant applications, as they are currently given priority for community care grants. Respondents were divided in their views on this question – 49% agreed and 51% disagreed. Those in favour argued that households with dependent children should be prioritised. Those opposed argued that such a prioritisation would be discriminatory and disadvantage other equally vulnerable groups. In addition, a practical difficulty was raised: in order to be able to process crisis grant applications quickly, they must be treated on a first-come, first-served basis; therefore, if one group is prioritised over another, it would cause delays in processing all other applications.

### **Payment of crisis grants**

The draft regulations included a requirement that crisis grants be paid in cash, or a 'cash equivalent'. The consultation therefore sought views about what kinds of payments should be considered as appropriate 'cash equivalents'.

Respondents generally agreed that it would be appropriate to consider Paypoint, fuel cards, travel cards, Allpay and high street vouchers as cash equivalents when paying crisis grant awards. (Paypoint was chosen most frequently.)

However, third sector respondents emphasised that applicants should have the right to choose how the grant is paid, and argued that cash (or bank transfer) should be the default payment method unless the applicant preferred an alternative. Local authority respondents discussed the advantages of different cash equivalents in certain circumstances, emphasising the importance of having a range of payment options available and the discretion to choose the best method for the applicant.

## **Timescales for processing crisis grants**

The consultation document set out proposed timescales for processing crisis grants, and respondents were asked if they agreed with these. Around three-quarters (72%) agreed and 28% disagreed. Those who agreed emphasised the importance of avoiding delays in making decisions for people who were faced with an emergency. However, this group also thought decision makers should have the discretion to extend timescales in some cases to allow applicants to complete their applications. Those disagreeing thought the proposed timescales could result in an increase in the number of applications being declined, or applicants not being awarded the amounts requested due to insufficient information.

Some respondents also commented that the working day for processing crisis grants applications should be defined as from 9am to 4pm (not 4.45pm as set out in the draft statutory guidance). The point was made that if 4.45pm is the cut off time, there would be insufficient time for an application to be taken and the necessary verification checks to be carried out for the grant to be paid the same day. Therefore, respondents thought that any application received after 4pm should be treated as having been received the next working day.

## **Grant exclusions**

The draft statutory guidance contained an annex with a list of excluded items for which, it was proposed, crisis grants and community care grants should not be made. (Examples included: a television or radio; school uniform; holidays; funeral costs; etc.) Respondents were asked if they agreed with proposals to exclude two further items: substantial improvements to private property and repatriation costs (i.e. costs associated with assisting a person to return to their home country). There was general agreement among respondents about these two proposals, with 71% agreeing to exclude substantial improvements to private property and 79% agreeing to exclude repatriation costs. Those in favour of excluding these items thought that the Scottish Welfare Fund was not the most appropriate source of funding for these costs. Those *not* in favour thought that local authorities should have the discretion to make awards for these items in exceptional cases.

## **Vulnerabilities**

The draft statutory guidance contained an annex with a list of vulnerabilities (i.e. factors that might increase a person's vulnerability) which local authorities should consider when processing applications. Respondents were asked if there was anything on the list of vulnerabilities that should be removed, or anything that should be added. Just over a quarter of respondents (28%)

suggested that one or more vulnerabilities should be removed from the list, and 38% thought that one or more vulnerabilities should be added.

## **Equalities impacts**

The consultation asked respondents for their views about what impacts the draft regulations and statutory guidance could have on vulnerable groups. Respondents identified potentially adverse impacts for single people / couples without children; people with disabilities; women (including disabled women and migrant women); older people and their carers; and black and minority ethnic groups (including refugees, migrants, and gypsy travellers).

## **Other comments on the draft regulations and guidance**

Respondents were asked for their views on the effects, gaps or unintended consequences of the draft regulations, and whether they had any other concerns, comments or suggestions on the draft statutory guidance.

Respondents' comments on the draft regulations focused on: improving access to the Fund; clarifying statements about the need to request reviews in writing; and improving the process of and timescales for notifying applicants about the outcome of decisions.

Additional points made in relation to the draft statutory guidance included: the importance of recognising the preventative nature of the Fund within the draft statutory guidance (and draft regulations); encouraging a more holistic approach to providing support to applicants; and the need for ongoing training for staff involved in the administration of the Fund.

## **Comments on the application form**

The consultation invited comments about whether there should be a combined application form for crisis grants and community care grants, or two separate application forms.

A majority of respondents (59%) were in favour of a combined form.

Respondents also suggested a range of improvements to the application form, including changes to the wording of certain sections of the form, and improvements to its layout, signposting, structure and flow.

### **How to access background or source data**

The data collected for this /social research publication:

may be made available on request, subject to consideration of legal and ethical factors. Please contact [will.tyler@gov.scot](mailto:will.tyler@gov.scot) for further information.



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