

# **Consultation on Regulations and Statutory Guidance under the Welfare Funds (Scotland) Act 2015**

**May 2015**

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## Ministerial Foreword



I am proud to introduce this consultation on the next stage of development for the Scottish Welfare Fund.

The Scottish Welfare Fund was developed in partnership with COSLA, local authorities and other organisations. It is an excellent example of collaborative working, resulting in the Welfare Funds (Scotland) Act 2015 which will ultimately come into force in April 2016.

This Act is important in many ways. It is the first substantive social security Act to come before the Scottish Parliament and will provide a permanent, reliable safety net for people on low incomes. The Act sets out the high-level framework for welfare funds, and lays down some important boundaries about how the Fund will operate in the future.

It also requires local authorities to ensure that people who apply for welfare funds are treated with respect and that their dignity is preserved; this is an important marker for how this Government wants to take forward the new social security related powers that are coming to the Scottish Parliament.

More immediately, we want to continue with our successful collaborative work to put in place regulations and statutory guidance under the new Act. We want to build on the experience of operating the Scottish Welfare Fund on an interim basis since April 2013. During that time, tens of thousands of households have received help with everyday household items and with basic living costs for eating and heating. This support provides a lifeline to vulnerable people who do not have the means to afford the necessities that the majority of us take for granted. So, it's important that we continue to reach out, provide a robust safety net, and carry on developing the Fund to maximise its ability to help people and families on a low income.

You can help us do that by sharing your experience of the Fund and responding to this consultation. Getting the views of all involved with the Fund is vital to us, so I am encouraging as many people as possible to contribute. We will listen very carefully to the all responses we receive, before finalising this next stage of the development of the Scottish Welfare Fund.

A handwritten signature in blue ink that reads "Margaret Burgess". The signature is written in a cursive style and is underlined with a single blue stroke.

Margaret Burgess  
Minister for Housing and Welfare

## Background

Scottish Ministers have always planned to set out the Scottish Welfare Fund (SWF) in law, using the experience of running the Fund on an interim basis since April 2013. The Welfare Funds (Scotland) Act 2015, passed on 3 March 2015 in the Scottish Parliament, is the first step in that process. The Act places a statutory duty on local authorities (LAs) to provide welfare funds, in line with regulations and statutory guidance. We plan to have the full legal framework for the SWF to be in place for April 2016.

This consultation is about the next stage in the process – the regulations and the statutory guidance that will give the detail of how LAs should provide their SWF.

The SWF started in April 2013, just after Department for Work and Pensions (DWP) crisis loans for living expenses and community care grants were abolished. The UK Government asked LAs in England to meet the need for grants. The Scottish and Welsh Governments were given the money that had been spent on the grants and could decide how to spend it.

In Scotland, we took on new powers to make social security payments, under the Scotland Act 1998 (Modification of Schedule 5) (No. 2) Order 2013. Scottish Ministers decided to use these new powers to set up the SWF, to be delivered by Scottish LAs. Scottish Ministers have issued national ministerial guidance to LAs on how to make grants under Section 21 of the Local Government Act 2003 – the Power to Advance Wellbeing. The national ministerial guidance is based on the DWP Social Fund, but is different in some significant ways. There are two types of grants under the SWF: crisis grants (CGs), and community care grants (CCGs). A CG aims to help people on low incomes, who are in crisis because of a disaster or an emergency. A CCG aims to help people on low incomes, who may have to go into care unless they get some support to stay at home. Or, if they are leaving care and need help to set up their own home. For example, they may be leaving hospital, prison or a residential care home. CCGs also help families facing exceptional pressures, with one-off items, like a cooker or a washing machine.

The SWF is, and will remain, a discretionary scheme that prioritises applications according to need. This means that a decision is made on each application, depending on the circumstances of the applicant rather than there being situations which make people entitled to a grant. The grants do not have to be repaid. LAs can provide grants in different ways; not all grants are cash payments. They may give fuel cards, furniture, or other forms of grant, if they think that the best way to meet the need of the applicant.

Scottish Ministers intend that the permanent SWF should continue to operate in much the same way as it does now – with one significant difference. At present, people who do not think that the decision on their application was correct can ask the LA to look at it again. This is known as a review. It can be a two-stage process. First, another LA decision maker will review the application and make a new decision. If the applicant is still not happy, they can ask for a second tier review, where an impartial LA panel looks again at the application. From April 2016, the review process will change and the second tier reviews will be looked at by the

Scottish Public Sector Ombudsman (SPSO). This will introduce more independence into the review process.

You can find out more about the development of the Welfare Funds (Scotland) Act at:

<http://www.gov.scot/Topics/People/welfarereform/scottishwelfarefund/welfarefundsbill>  
<http://www.scottish.parliament.uk/parliamentarybusiness/Bills/77924.aspx>

You can find a summary of the interim SWF at:

<http://sh45inta/Topics/People/welfarereform/scottishwelfarefund/Summaryofthescheme>

You can find up to date statistics on awards from the interim SWF at:

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

You can find out more about the SPSO thinking about his new role at:

<http://www.spsso.org.uk/news-and-media/spsso-briefing-note-scottish-welfare-funds-scotland-bill>

## About this consultation

The 32 welfare funds set up by the Welfare Funds (Scotland) Act 2015 will be managed by LAs according to regulations under the Act, and statutory guidance. The interim SWF has already been making grants for two years, so LAs have good experience of what works and what does not work. The interim SWF is meeting the needs of applicants and there are systems in place to check how well the service is running and improve the way it works. We set up the improvement system to help decision makers make the right decision every time. It also helps to make sure that all LAs make their decisions in the same way, following the guidance that the Scottish Government has given them. The permanent SWF will be based on the interim SWF but there will be some changes because of the lessons we have learned. This consultation asks questions about:

- Some policy issues on which people may have different views.
- Changes between the guidance under the interim SWF and the statutory guidance under the permanent SWF, where we want to be sure that we understand what will happen as a result.
- Equalities impacts of the permanent SWF, to use in our equality impact assessment.
- Whether the draft regulations will help decision makers to make the right decisions, in the same way as decision makers in other LAs and whether they will help the SPSO to carry out effective reviews of cases.
- The standard application form for the SWF, so that we can improve this for the permanent SWF.



## 1) VIEWS ON POLICY ISSUES AND EQUALITIES IMPACTS

### a) Eligibility for an SWF Grant – What is Low Income

SWF grants should be given to people on low incomes or who cannot get access to their money for some reason. Under the interim SWF, being entitled to certain DWP benefits is used as evidence of being on a low income. For people who are not entitled to one of these benefits, LAs can use their judgment to decide whether or not someone is on a low income, depending on their situation. They make this decision based on information given on the application form and information that they already have, for example in council tax or housing benefit systems. This gives LAs the flexibility to make awards to people who are on a low income for a wide range of reasons. It also means that LAs do not need to carry out an income assessment for every case. A full income assessment can take a long time as it means gathering a lot of information. This may not be worthwhile for a small CG as it takes up a lot of staff time which costs too much. However, because LAs all make their own judgements, there can be differences between one decision maker's opinion and another's. There can also be differences between LAs who are using different ways of deciding what a low income is. If LAs try to make their own decision making more consistent by setting their own guidelines, they may be criticised by the SPSO for setting their own rules rather than using Scottish Government guidance.

We would like to hear your views about different ways of deciding if someone is on a low income. This is so that we can find a way which lets decision makers help people in a wide range of situations but which doesn't mean collecting a lot of information from the applicant.

**Q1** – Is it a problem that LAs use different ways to decide whether or not an SWF applicant is on a low income to check that they are eligible for an award?

YES/NO

Please explain your answer.

**Q2** – What is the best way for a LA to decide that an SWF applicant is on a low income? Please tick one.

Continue to use the same method as for the interim SWF – LA decision makers make a judgement on whether the applicant is on a low income based on the information given by the applicant, which benefits they are entitled to and information they already have in their other benefit systems. This will mean that LAs use slightly different methods, as they do now.	
We could make a list of different “approved” ways that LA decision makers could use to decide whether the applicant is on a low income. For example, if you are entitled to certain welfare benefits or levels of tax credits, council tax reduction or housing benefit. The LA could use the best way for their systems. This would still mean some variation but less than under the current system.	

<p>We could decide a set level of income and ask decision makers not to make grants to anyone whose income is higher. The level of income could be different according to what sort of household the applicant is in. This would reduce variation between LAs but would also mean that LAs cannot make their own judgements to make an award when someone is above the income level. This is not as flexible as the current arrangement where special circumstances can be taken into account so that a grant can be made when income is higher.</p>	
<p>Other – please give details.</p>	

Please tell us why you have chosen this option and explain the advantages and disadvantages.

### **b) Repeat Awards for CCGs and CGs**

At the end of the first year of the SWF, there was money left in the Fund and this was carried forward to use in the second year. At the end of the second year of running, almost all of the money has been spent, including the extra money left over at the end of the first year. We think that there will be more applications in the future, because people on benefits are being affected by welfare reform and need more help. In general, we think that the SWF should make grants to as many different people who qualify as possible, rather than being spent on a smaller number of people who apply more often.

**A new limit on the number of CCGs in a 12 month period** - At the moment, there is no limit on the number of CCGs that a person can be given. LAs have told us about a small number of cases where an applicant has moved in to new homes several times but not managed to keep them. This means that they apply for another CCG when they are re-housed again, not long after. While this is only happening in a very small number of cases, we would like to protect the Fund by making sure that it doesn't happen more in the future. We are therefore thinking about setting a limit of three CCG awards in any 12-month period.

#### **Information on repeat awards**

Between April 2013 and December 2014, 92,600 households applied for a CCG 18% of these made more than one application during the 21 month period and 9% applied both in 2013/14 and 2014/15. A total of 3,647 households have applied three or more times since the scheme began. Of these, 495 applied three or more times in 2013/14 only, 554 applied three or more times in 2014/15 only, and 98 applied three or more times across different financial years.

Between April 2013 and December 2014, 120,400 households have applied for a CG, 42% applied only during 2013/14, 20% applied only during 2014/15 but 22% have applied during both years. Since the scheme began in April 2013, 58% of the households have applied only once, 19% have applied twice and 23% have applied three times or more.

**Reducing the number of CGs for couples** - Under the interim SWF, applicants will usually only be given three CG awards in any 12-month period. For couples or families, this means they might be given up to six CG awards in any 12-month period because each adult can get three CGs. However, a single parent or single person can only be given three CGs in any 12-month period. This means that they are not being treated equally. Single parents are often women so they are affected by this more than men. We think it would be fairer for single people if couples and other households were treated in the same way and are therefore thinking about setting a limit of three CG awards in any 12-month period for each couple.

We would like your views on whether we should set a limit on the number of CCGs and CGs that can be given to each household in a 12-month period.

**Q3** - What do you think the consequences would be if we limited CG awards to three per household per year?

**Q4** - What do you think the consequences would be if we limited CCG awards to three per household per year?

**Q5** - Do you think that there should be a limit on the number of times that a CCG can be given for the same item in a set period?

YES/NO

If so, what should the limits be?

Please explain your answers.

### **c) Families facing Exceptional Pressure**

While the Welfare Funds (Scotland) Act 2015 was going through the Parliament, there was a lot of discussion about families under exceptional pressure. The permanent SWF will continue to make payments to families under exceptional pressure in the same way as the interim SWF. In addition, in order to make sure that a wide range of situations are covered, we have added a regulation which requires LAs to give priority to families facing exceptional pressure when they are making decisions on CG applications as well as CCG applications.

**Q6** - Do you agree that families facing exceptional pressure should be given priority in decisions on CG applications as well as CCGs?

YES/NO

Please explain your answer.

#### **d) How CGs are Paid**

While the Welfare Funds (Scotland) Act 2015 was going through the Parliament, the Minister for Housing and Welfare said that a regulation would be made to make sure that LAs only pay cash or a cash equivalent for a CG. She said: “that cash or a cash equivalent is the default position for CG payments, unless it suits the applicant to have an award fulfilled in another manner.”

There are some practical things to take in to account in doing this. In particular, it is difficult to pin down what is a cash equivalent.

If LAs pay cash grants, applicants can choose where to shop and what to buy as they know best what they need. It also avoids stigma because no one knows that they are spending a grant.

However, LAs use different payment methods for different reasons. In some cases, a service such as Paypoint or Allpay is the only way to safely make a payment to an applicant for practical reasons, for example because it is too far to travel to collect cash. Some cash equivalents may mean that the applicant gets help more quickly e.g. fuel cards, which may be the normal way to pay for fuel and saves them from having to buy a card.

We know that many LAs do not have cash offices anymore, because a lot of people pay rent and council tax by electronic payments. It may cost a lot of money to set up cash offices. In some cases it may cause harm to the applicant to pay them cash, for example where the applicant had a dependency or addiction.

**Q7** - Which sorts of payment do you think are cash equivalents that LAs should be able to use to pay SWF grants? You can choose as many as you like.

Paypoint or alternative electronic transfer	
Allpay (without restrictions) or other loaded store card	
Fuel Cards	
High street vouchers accepted at a number of outlets e.g. for clothing	
Travel tickets, bought on behalf of the applicant	

If there are other forms of payments that you think would be suitable cash equivalents for LAs to use, please tell us what they are.

**Q8** – How can LAs make sure that the way they are making the award, i.e. in cash or by a cash equivalent, is the best one for the applicant?

#### **e) Timescales for Processing CGs**

Timescales for processing CGs are now limited by the Welfare Funds (Scotland) Act 2015:

“Regulations making provision of a type described in subsection (2)(b) must provide that a local authority is to make its decision on an application for assistance in pursuance of section 2(1)(a)—

(a) immediately after the authority has received all information allowing a decision to be made, and

(b) in any event, no later than the end of the next working day.”

In the draft statutory guidance on the SWF, we say more about what this will mean in practice.

**Q9** – Do you agree with the draft statutory guidance on timescales for processing CGs? It says that:

- LAs must consider a case and make a decision immediately they receive all the information they need to make the decision.
- A working day is between 9am and 4.45pm. If an application is received after 4.45pm, it should be treated as being received on the next working day.
- Even if the LA is still waiting for a piece of information that they think is relevant to the decision, a decision must be made by close of business on the day after the application has been received. This means that a decision is made at the end of the day after the application is received, on the balance of probability, based on the information held at the time.

YES/NO

If not, please explain why.

#### **f) Excluded Items**

We are thinking about adding two new things to the list of exclusions in the draft statutory guidance:

Substantial improvements to private property – e.g. installation of central heating or major roof repairs. LAs sometimes receive applications for major work to private rented or owner occupied houses, to allow for the applicant to stay in their home. This often involves a large grant which has the side effect of increasing the value of a private property. Improvements to LA and social housing are already excluded items for the SWF. While the SWF was set up partly to help people to maintain a home in the community, it is difficult for LAs to balance the need of one applicant for a large grant which may only help them for a very short time, with the needs of other applicants needing help. We therefore think that substantial improvements to property should be added to the list of exclusions so that all LAs make the same decision in this sort of situation and do not make a grant for them.

**Q10** - Do you agree that substantial improvements to private property should be added to the list of excluded items at Annex A of the draft statutory guidance?

YES/NO

If not, please explain why.

Repatriation costs - At least one LA has received an application for the costs of travel from someone from another EU country who had no money and wanted to go home. We don't think that the SWF should be used to pay for these costs because its aim is to keep people in the community. We therefore think that repatriation costs should be added to the list of exclusions so that all LAs are making the same decision in this situation and do not make a grant for them.

**Q11** - Do you agree that repatriation costs should be added to the list of excluded items at Annex A of the draft statutory guidance?

YES/NO

If not, please explain why.

Any further additions to, or deletions from the list of exclusions – Apart from the changes to the list of excluded items listed above, we would like to know if there are any other items that should be added to or taken off the list.

**Q12** – Do you think there should be any other items added to the list of excluded items in Annex A of the draft statutory guidance?

YES/NO

**Q13** – Do you think there should be any items taken off the list of excluded items in Annex A of the draft statutory guidance?

YES/NO

If yes, please tell us which items and explain why.

### **g) Vulnerabilities**

Annex C of the draft statutory guidance contains a list of examples of vulnerabilities that decision makers should use when they are deciding how vulnerable an applicant is. We would like to know if there are other experiences or conditions which make people more vulnerable and which LAs should take in to account when they are making a decision.

**Q14** – Is there anything on the list of vulnerabilities at Annex C of the draft statutory guidance that you don't think should be there?

YES/NO

If yes, please tell us what and explain why.

**Q15** – Is there anything that you think should be added to the list of vulnerabilities at Annex C of the draft statutory guidance?

YES/NO

If yes, please tell us what situation, condition or circumstance should be added to the list of vulnerabilities and explain why.

## **h) Equalities Impacts**

Before the introduction of the Welfare Funds (Scotland) Act 2015, we carried out an equality impact assessment (EQIA), including analysis of the monitoring information on the interim SWF. You can read a summary of the EQIA at: <http://www.gov.scot/Topics/People/welfarefund/scottishwelfarefund/welfarefundsbill/eqiasummary>. The EQIA found a number of areas for monitoring of development in the practical operation of the SWF, for example low take up in particular groups, which we have been looking at as part of our programme of quality improvement work. We will be updating the EQIA as we continue to develop the draft regulations and guidance, using monitoring information and stakeholder views.

**Q16** – What equalities impacts have you identified from the draft regulations and guidance at Annexes B and C to the consultation paper?

### **Updates on Policy Areas where we are not consulting but there is Work under Way**

**SWF Eligibility for Universal Credit (UC) claimants** - We need to think about how LAs should judge whether applicants who are entitled to UC are on a low income or not. Some people on UC will be earning higher levels of income because it will be paid to people who currently receive working tax credit. In the long run, we do not think that everyone who is entitled to UC should be eligible for an SWF grant. We have done some work on this and plan to decide what to do once we know more about the UK Government's plans for UC.

**CCGs for offenders on temporary release/home visits** - Under the interim SWF, a CCG can be paid to an applicant who is looking after a prisoner or young offender on a home visit. This is to pay for living costs while the prisoner or young offender is staying with them. The grant is not made to the prisoner or young offender themselves. We know that there has been some confusion among LAs and applicants about this sort of award. In April 2015, we updated guidance to SWF decision makers to try to be clearer on what rate of living expenses should be given to people looking after prisoners on home release. We are now looking at how grants for home release can work better in the future.

**SWF applicants who are not from the UK** - Following feedback from LAs and others, we are planning a further advice note for decision makers on applications from people who are not from the UK. In some cases, these can be very complicated cases and we want to give decision makers more information on the status of people from different countries and in different situations so that they are clear on when a grant can be made and when it should not.

## **2) VIEWS ON DRAFT REGULATIONS**

a) SWF regulations are the clear rules which LA managers and decision makers will need to follow. They will also be used by the SPSO to test decisions when they carry out an independent review if an applicant asks for one. The regulations aim to:

- Set out rules for the steps that decision makers need to go through in the decision making process. They cover eligibility, gathering and recording information from applications and the sorts of situations when a grant should be made. Regulations on eligibility will mean that all LAs are considering grants for the same sorts of people but that they can make exceptions when they come across difficult cases. Detail about the decision making process will be in guidance but the regulations include the information that LAs need to record. This will make it easier to check that the decision making process is being used properly.
- Give LAs the chance to fit the service in with other local services but still have a standard decision making process so that the SWF is the same all over Scotland. The regulations will allow LAs to decide how to take applications to the Fund and how to make grants, as long as they make CG payments by cash or cash equivalents.
- Give LAs the chance to make their own decisions, depending on the circumstances of the case, rather than a strict set of rules for every situation. The draft regulations are therefore quite broad. They do not contain a lot of detail, which you might find for entitlement based welfare benefits.

Draft regulations are at Annex B.

### **What the regulations will mean:**

#### **1. Citation and Commencement**

The regulations will come in to effect on 1 April 2016.

#### **2. Interpretation**

This section gives definitions of various terms to use in reading the regulations.

#### **3. Age**

Applications are only taken from people who are 16 or over. There is no upper age limit.

#### **4. Residence**

LAs will normally give grants to applicants who live in the LA area or have an address in the area that they will move to.

There are some exceptions:

- People who are stranded away from home and need a CG to get back to their own LA. In this case they can get a grant from the LA where they are stranded.



- People who are moving to another LA, for example to provide care for someone else. In this case, if they apply to the LA which they are leaving, that authority is able to make a grant but does not have to.
- People who are homeless.

LAs are also able to make a grant to people who do not live in their area if they think that their situation is exceptional.

## **5. Income and capital**

Grant awards are only made to people on low incomes or to people who cannot get other help.

LAs can make a judgment on what is low income but if the applicant is entitled to one of the listed benefits then this is enough to show that they are on a low income.

There will be more information on savings thresholds and income to be disregarded in calculations in the statutory guidance, so that it can be easily updated.

## **6. Types of assistance**

The five situations where a CCG can be paid are:

- To help people establish themselves in the community following a period of care where circumstances indicate that there is a risk of the person not being able to live independently without this help,
- To help people remain in the community rather than going in to care where circumstances indicate that there is a risk of the person not being able to live independently without this help,
- To help people set up home in the community, as part of a planned resettlement programme, following an unsettled way of life,
- To help families facing exceptional pressures,
- To help people to care for a prisoner or young offender on release on temporary release.

LAs will not make an award to applicants under the first of these situations if they have not spent three months in care or custody. This is a qualifying period of three months in institutional care, or a pattern of repeated admissions. In the case of prisoners, it is three months spent in custody, to include time spent on remand.

Situations where a CG can be given will be given in statutory guidance, rather than regulations. This is because crisis and disaster can come about because of so many different causes and we don't think that regulations are the best place to describe these.

## **7. Procedure for applications**

LAs will advertise the different ways that people can apply for the SWF on their websites. Applicants must apply using the ways that LAs have set out.

## **8. Repeat applications**

If a person has made an application for a CCG or a CG for the same items or services dated within the last 28 calendar days (four weeks), and a decision has

already been made, the LA should not give a grant. Where there has been a relevant change of circumstances, for the applicant, since the previous application, the LA should treat it as a new application.

#### **9. CG – Families under Exceptional Pressure**

LAs will give priority to families facing exceptional pressure when they are making a decision about a CG.

#### **10. Limitation on award of CGs**

LAs do not normally make an award to an applicant who has already had three CGs in any 12-month rolling period, measured from the date of the decision. This is true wherever in Scotland the applications have been made. However, LAs can give a fourth grant if they think that there are exceptional circumstances.

#### **11. Form of CG Assistance**

LAs must pay CGs in cash or a cash equivalent, unless it is better for the applicant to be paid in a different way.

#### **12. Excluded Items**

LAs will not make grants for the things which are on the list of excluded items in the guidance. This includes things like work expenses and debt payments. There is a list at Annex A of the statutory guidance.

#### **13. Application on behalf of a person**

LAs can take an application from someone acting on behalf of the applicant, if the applicant agrees and the LA thinks it is reasonable to do this.

#### **14. Decisions on fund applications**

LAs must make decisions on applications for CCG within 15 working days of receiving all the information they need to make a decision. LAs must respond to every application by sending a decision letter, or by another form of communication if the applicant has asked them to.

This is so that applicants have a record of the application and all the information they need to understand the decision and to request a review if necessary.

#### **15. Reviews**

LAs must review their decision on an application if the applicant asks them to. The applicant must usually ask for the review in writing but the LA can take requests in other ways if the applicant finds it difficult to ask in writing. The LA must send the result of the review in writing. The LA should make arrangements for the case to be looked at by a different decision maker who did not make the original decision.

The first tier review decision may:

- not change the original decision,
- cancel the original decision and make a new decision.

It cannot pay a lower grant or take away a grant that has already been given.

LAs must carry out first tier reviews where a request is made within 20 working days of the original decision date. The LA may make exceptions to this time limit if they think it is reasonable to do so.

LAs should make a decision on a first tier review of:

- CGs within two working days of receiving a request from an applicant,
- CCGs within 15 working days of receiving a request from an applicant.

## **16. Content of Decisions**

LAs must include this information in their decision letters:

- what was applied for,
- the date of the application,
- the date of the decision,
- the reasons for the decision,
- details of what was granted,
- information on how to ask for a review.

## **17. Retention of Information**

LAs must keep a record of applications for seven financial years, including the year that the application is made in. As well as the information which is in the decision letter to the applicant, the record should include:

- facts taken into account in making a decision on the application,
- any information gathered that the decision maker deliberately decided not to take in to account in making the decision, and
- a record of each time there was contact with the applicant.

**Q17** – Do you think that the draft regulations at Annex B to this consultation paper will have the effects that we have listed here?

YES/NO

**Q18** - If you do not think that they will have these effects, please tell us about any gaps in the regulations or unintended consequences you would expect from these regulations.

### **Areas where there is no current plan to regulate**

At the moment, we have no plans to regulate on the following areas which were noted in the Welfare Funds (Scotland) Act 2015.

- arrangements for joint working if LAs decide to collaborate to provide the service,
- the definition of crisis or emergency,
- recovery of items,
- requiring LAs to provide statistical information,
- requiring people to provide information for the purposes of a first tier review,
- circumstances where a review cannot be requested.

This may change over time, depending on the experience of the permanent SWF.

### 3) VIEWS ON DRAFT STATUTORY GUIDANCE

Draft statutory guidance for the permanent SWF is at Annex C. It is based on the guidance for the interim SWF.

**Q19** – Please tell us about any concerns, comments or suggestions you have on the draft statutory guidance at Annex C to this consultation paper, that are not already covered by the questions in Section one of the consultation paper.

### 4) APPLICATION FORM

The interim SWF has one application form for both grants, so that an application for a CG can be used to make a CCG and vice versa. This is because much of the information that LAs collect is needed to process both grants, for example in order to decide whether the applicant is vulnerable or has another source of support. You can see a copy of the application form at Annex D. During the passage of the Welfare Funds (Scotland) Act 2015, we heard that the application form is too long and is a barrier to people applying for a grant. We can change the application form before the permanent SWF is introduced and would like to hear your views on what could be better. While the form itself is only used in a fairly small number of applications, the questions on it are used by IT suppliers to develop on-line forms and by LAs to write scripts to use in telephone services.

**Q20** - Should the application form for the permanent SWF be:

A combined CG and CCG application form	
Two separate application forms	

Please tick your chosen option.

Please explain your answer.

**Q21** - What information is collected on the application form for the interim SWF, at Annex D to this paper, that you do not think is needed to assess an application?

**Q22** - How can the application form for the interim SWF, at Annex D to this consultation paper, be improved for the permanent SWF?

## **RESPONDING TO THIS CONSULTATION PAPER**

We are inviting written responses to this consultation paper by **21 August 2015**.

**Please send your response to the consultation questionnaire with the completed Respondent Information Form, available separately on the Scottish Government website (see "Handling your Response" below) to:**

[swfregsandguidance-consultation@scotland.gsi.gov.uk](mailto:swfregsandguidance-consultation@scotland.gsi.gov.uk)

or

Scottish Welfare Fund  
Area 1J-South  
Victoria Quay  
Edinburgh  
EH6 6QQ.

This consultation, and all other Scottish Government consultation exercises, can be viewed online on the consultation web pages of the Scottish Government website at <http://www.scotland.gov.uk/consultations>.

The Scottish Government has an email alert system for consultations, <http://register.scotland.gov.uk>. This system allows stakeholder individuals and organisations to register and receive a weekly email containing details of all new consultations (including web links). It complements, but in no way replaces SG distribution lists, and is designed to allow stakeholders to keep up to date with all SG consultation activity, and therefore be alerted at the earliest opportunity to those of most interest. We would encourage you to register.

### **Handling your response**

We need to know how you wish your response to be handled and, in particular, whether you are happy for your response to be made public. Please complete and return the **Respondent Information Form** which forms part of the **consultation questionnaire**. If you ask for your response not to be published we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

## **Next steps in the process**

Where respondents have given permission for their response to be made public and after we have checked that they contain no potentially defamatory material, responses will be made available to the public in the Scottish Government Library. You can make arrangements to view responses by contacting the SG Library on 0131 244 4552. Responses can be copied and sent to you, but a charge may be made for this service.

## **What happens next?**

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us reach a decision on the regulations and statutory guidance under the Welfare Funds (Scotland) Act 2015. We aim to issue a report on this consultation process by December 2015. We aim to lay regulations and issue statutory guidance to LAs in early 2016 and have the full legal framework for the permanent Welfare Funds in place by April 2016.

## **Comments and complaints**

**Annex E** gives more information on the Scottish Government consultation process and a list of the people that this consultation has been sent to is at **Annex F**. If you have any comments about how this consultation exercise has been conducted, please send them to:

Scottish Welfare Fund  
Area 1J-South  
Victoria Quay  
Edinburgh  
EH6 6QQ.

or

e-mail: [swfregsandguidance-consultation@scotland.gsi.gov.uk](mailto:swfregsandguidance-consultation@scotland.gsi.gov.uk)

# Consultation on Regulations and Guidance under the Welfare Funds (Scotland) Act 2015.



## RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

### 1. Name/Organisation

Organisation Name

Title Mr  Ms  Mrs  Miss  Dr  *Please tick as appropriate*

Surname

Forename

### 2. Postal Address

Postcode	Phone	Email
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### 3. Permissions - I am responding as...

**Individual** /  **Group/Organisation**  
*Please tick as appropriate*

(a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

*Please tick as appropriate*  Yes  No

(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

*Please tick ONE of the following boxes*

Yes, make my response, name and address all available

or

Yes, make my response available, but not my name and address

or

Yes, make my response and name available, but not my address

(c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

*Please tick as appropriate*  Yes  No

(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

*Please tick as appropriate*  Yes  No

## CONSULTATION QUESTIONS

### 1) VIEWS ON POLICY ISSUES AND EQUALITY IMPACTS

**1. Is it a problem that Local Authorities (LAs) use different ways to decide whether or not a Scottish Welfare Fund (SWF) applicant is on a low income to check that they are eligible for an award?**

Yes  No

**Please explain your answer :**

**2. What is the best way for an LA to decide that a SWF applicant is on a low income? Please tick one.**

Continue to use the same method as for the interim SWF – LA decision makers make a judgement on whether the applicant is on a low income based on the information given by the applicant, which benefits they are entitled to, and information they already have in their other benefit systems. This will mean that LAs use slightly different methods, as they do now.	
We could make a list of different “approved” ways that LA decision makers could use to decide whether the applicant is on a low income. For example, if you are entitled to certain welfare benefits or levels of tax credits, council tax reduction or housing benefit. The LA could use the best way for their systems. This would still mean some variation but less than under the current system.	
We could decide a set level of income and ask decision makers not to make grants to anyone whose income is higher. The level of income could be different according to what sort of household the applicant is in. This would reduce variation between LAs but would also mean that LAs cannot make their own judgements to make an award when someone is above the income level. This is not as flexible as the current arrangement where special circumstances can be taken in to account so that a grant can be made when income is higher.	
Other – please give details.	

Please tell us why you have chosen this option and explain the advantages and disadvantages.



**3. What do you think the consequences would be if we limited crisis grant (CG) awards to three per household per year?**

**4. What do you think the consequences would be if we limited community care grant (CCG) awards to three per household per year?**

**5. Do you think that there should be a limit on the number of times that a CCG can be given for the same item in a set period?**

Yes  No

**If so, what should the limits be?**

**Please explain your answer:**

**6. Do you agree that families facing exceptional pressure should be given priority in decisions on CG applications as well as CCGs?**

Yes  No

**Please explain your answer:**

**7. Which sorts of payment do you think are a cash equivalent that LAs should be able to use to pay SWF grants. You can choose as many as you like:**

<b>Paypoint or alternative electronic transfer</b>	
<b>Allpay (without restrictions) or other loaded store card</b>	
<b>Fuel Cards</b>	
<b>High street vouchers accepted at a number of outlets e.g. for clothing</b>	
<b>Travel tickets, bought on behalf of the applicant</b>	

**If there are other forms of payments that you think would be suitable cash equivalents for LAs to use, please tell us what they are:**

**8. How can LAs make sure that the way they are making the award, i.e. in cash or by paying a cash equivalent, is the best one for the applicant?**

**9. Do you agree with the draft statutory guidance on timescales for processing CGs. i.e. that:**

- **LAs must consider a case and make a decision immediately they receive all the information they need to make the decision.**
- **A working day is between 9am and 4.45pm. If an application is received after 4.45pm it should be treated as being received on the next working day.**
- **Even if the LA is still waiting for a piece of information that they think is relevant to the decision, a decision must be made by close of business on the day after the application has been received. This means that a decision is made at the end of the day after the application is received, on the balance of probability, based on the information held at the time.**

Yes  No

**If not, please explain why:**

**10. Do you agree that substantial improvements to private property should be added to the list of excluded items at Annex A of the draft statutory guidance?**

Yes  No

**If not, please explain why:**

**11. Do you agree that repatriation costs should be added to the list of excluded items at Annex A of the draft statutory guidance?**

Yes  No

**If not, please explain why:**

**12. Do you think there should be any other items added to the list of excluded items in Annex A of the draft statutory guidance?**

Yes  No

**If yes, please tell us which items and explain why:**

**13. Do you think there should be any other items taken off the list of excluded items in Annex A of the draft statutory guidance?**

Yes  No

**If yes, please tell us which items and explain why:**

**14. Is there anything on the list of vulnerabilities at Annex C to the draft statutory guidance that you don't think should be there?**

Yes  No

**If yes, please tell us what and explain why:**

**15. Is there anything that you think should be added to the list of vulnerabilities at Annex C to the draft statutory guidance?**

Yes  No

**If yes, please tell us what situation, condition or circumstance should be added to the list of vulnerabilities and explain why:**

**16. What equalities impacts have you identified from the draft regulations and guidance attached at Annexes B and C to the consultation paper?**

## 2) VIEWS ON DRAFT REGULATIONS

17. Do you think that the draft regulations will have the effects that we have listed at section 2 of the consultation paper?

Yes  No

18. If you do not think that they will have these effects, please tell us about any gaps in the draft regulations at Annex B to the consultation paper or unintended consequences you would expect from these regulations:

## 3) VIEWS ON DRAFT STATUTORY GUIDANCE

19. Please tell us about any concerns, comments or suggestions you have on the draft statutory guidance at Annex C to the consultation paper that are not already covered by the questions in Section 1 of the consultation paper:

## 4) VIEWS ON THE APPLICATION FORM

20. Should the application form for the permanent SWF be:

A combined CG and CCG application form	
two separate application forms	

Please tick your chosen option.

**Please explain your answer:**

**21. What information is collected on the application form for the interim SWF, at Annex D to the consultation paper, that you do not think is needed to assess an application?**

**22. How can the application form which is at Annex D to the consultation paper for the interim SWF be improved for the permanent SWF?**



**The Scottish  
Government**  
Riaghaltas na h-Alba

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**[www.gov.scot](http://www.gov.scot)**

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