

# 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

Argyll and Bute Council

Title Mr ☐ Ms ☒ Mrs ☐ Miss ☐ Dr ☐ Please tick as appropriate

Surname

Orr

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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

### **Preamble to consultation response**

Argyll and Bute Council welcomes the opportunity to respond to this consultation. The Council considers that the interim scheme has provided an effective source of support to some of the most vulnerable in our communities. The Council considers that the introduction of the Scottish Welfare Fund (SWF) has worked well. Although volumes of applications have reduced from those experienced by DWP, this is in part due to the reduced reliance on cash for support and the increased use of goods and vouchers. Whilst undoubtedly less popular with claimants, this means that assistance is much more targeted. The new national contract from Scotland Excel has also meant that better value can be obtained through increased purchasing power. The council considers these aspects to be a major improvement. The council has also welcomed the fact that grants do not have to be repaid and is pleased to see this element now enshrined in legislation.

Because of the short time for introduction of the interim scheme, the opportunity was lost to commission a single national computer system to support the scheme and each local authority had to make its own arrangements. There are 4 main systems in use. There should now be an opportunity to commission a single hosted national system to support the new permanent scheme, with a single set of parameters and interface facilities. This would be consistent with the national public sector ICT strategy. However it is disappointing that this opportunity is not being taken.

The new permanent scheme should also have been an opportunity to consider the efficiencies of a single consolidated team to support telephone and on-line applications with the benefits of economies of scale. It would be much easier now to build in local variations in referrals, as this has all been worked out and is now known. Again, this opportunity has not been taken. This council has serious concerns about the administration costs of the current scheme which is currently very expensive to administer for small authorities with relatively low volumes despite making use of the Scotland Excel contract.

The Council is also concerned that widening the definition of low income to include all those on Universal Credit will mean that it becomes even more difficult to support all those in greatest need from the programme funding available. Whilst the Act allows councils to add to the fund from within their own resources, in addition to the monies made available from the Scottish Government, there should be no expectation that this may be possible given the pressure on public sector finances.

## **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 x No ☐

**Please explain your answer :**

It is a national scheme therefore interpretation of “low income” should be kept as similar as possible across all local authorities in the interest of fairness and equality of treatment. However it is a discretionary scheme, and such discretion should not be unduly fettered.

**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 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.

The Council’s preference is for the second option as the first option allows too much variation and the third is too restrictive. The advantage is that it gives more uniformity across local authorities yet still allows for discretion in response to individual circumstances which cannot all be fully predicted in advance. The disadvantage is that there is still some scope for some variation. However this is inevitable within a discretionary scheme.

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

We agree that it would be fairer to set the limit on the number of claims in a rolling 12 month period on a per household basis rather than the limit applying to each adult within the household separately. However, the change may mean

that more households may try to insist that their circumstances are exceptional, leading to an increase in reviews or complaints. This is quite likely where they may have become accustomed to claiming up to three times each in a rolling 12 month period.

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

In contrast, because there are relatively few repeat claims for community care grants within a year, we do not think that a limit of three per annum for a household will affect the number of claims made in any significant way. We would support such a limit as it would provide additional incentive to the claimant to try and maintain a tenancy for a longer period which would be in their best interest. A third claim within a year should be trigger point for providing additional support to the claimant to maintain their tenancy. This should have the result of further reducing repeat claims.

**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 x No ☐

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

The fund is limited and providing replacement items places a strain on the budget. In general, durable items should not be awarded more than once within a 3 year period except in exceptional circumstances such as where there are good reasons where a claimant is unable to take them to a new tenancy, for example if fleeing domestic abuse or harassment. Customers should generally be expected to take reasonable care of awarded items and this should be made clear to them at the outset.

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

Yes ☐ No X

**Please explain your answer:**

The draft regulations appropriately define a crisis grant as assistance for the purposes referred to in paragraph 2(1)(a) of the Act. These purposes are about meeting an immediate short term need arising out of an exceptional event or exceptional circumstances which requires to be met to avoid a risk to the wellbeing of an individual. It therefore does not seem necessary, and in fact adds confusion, to have a regulation that states that priority is to be given to households facing exceptional pressure. All individuals and/or families meeting the requirement for a crisis grant could easily be described as facing exceptional

pressure.

The regulation also talks about giving priority to such cases, and priority in relation to SWF is a concept relating to the financial management of the fund, and applies both to applications and to items awarded, each of these being classed as high, medium or low in relation to the nature, extent, severity and urgency of the need. To introduce another measure of “priority” also creates confusion which is unhelpful both to decision makers and claimants.

For these reasons, we consider that the draft regulation 9 is unhelpful and should be removed.

**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.**

Gift-style” cards commonly issued by high street shops could also be used. However what is appropriate in one geographic area may not necessarily be practical in another area. Local authorities should have discretion to determine the most appropriate and cost-effective way of making payments.

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

We can ensure this by taking into account where they live and what method is convenient for them, their history of previous applications, and their personal situation. It is essential that we avoid stigma, and support people in having some control over what they purchase with a crisis grant in order to meet their specific needs. It is important to act in customer’s best interests in the particulars of each situation.

**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:

In all cases this should be achievable.

It is recognised that where applications are made late on a Friday before a bank holiday weekend, and these are not decided until the next working day, being the Tuesday following, this can create particular difficulties for applicants. However, it is not possible to guarantee processing on the same working day despite best efforts, particularly where heavy demand is experienced.

**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:

There may be good reasons why it would be beneficial for the individual to return to their home community rather than staying somewhere with limited support. These situations are likely to be rare, but should not be excluded.

**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:**

However, it should be made clearer that meeting one of these factors does not necessarily create a vulnerability. For example, children in a large family, or with young parents, may not experience any particular vulnerabilities, although families in these circumstances are at higher risk of being vulnerable.

**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?**

We do not consider that the draft regulations are likely to change equalities impacts from the interim scheme in any material respect.

We note that statistics on scheme awards for the period 1 April 2013 to 31 December 2014 suggest that only 34% of households receiving SWF assistance have a vulnerability which may or may not equate to an equalities characteristic, and that few pensioners receive assistance. However we do not believe that such groups are being discriminated against – rather that generally they are being assisted in other ways and have less need of assistance from the Scottish Welfare Fund at present. This situation may change as a result of welfare reform changes, and it will be interesting to see if analysis of recipients changes as a result.

## **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:**

Regulation 11 "Form of crisis grant assistance" does not cater fully for crisis grant applications for items following a disaster such as cookers etc where it may be better for the applicant (and better value for the local authority) to

arrange for delivery and installation of such an item rather than providing cash or cash equivalent. The draft guidance at section 4.39, 7.6 and 7.26 would also require revision to allow fulfilment by way of goods, which was specifically allowed under the interim scheme. There appears to be no good reason for changing this discretion for local authorities.

See also response to question 6 re regulation 9. No other unintended consequences have been identified.

### **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:**

Guidance at section 7.12, 7.13 and 8.19 suggests that someone on Universal credit or an equivalent amount of income should be deemed to be on a low income. As Universal Credit will include all those receiving tax credits, we believe this is framed too widely, and much more widely than has been the case prior to the introduction of Universal Credit. This is one reason why discretion is required for defining low income.

Guidance section 8.9 requires an applicant for a CCG to be “vulnerable” and to have one or more of the vulnerabilities listed at Annex C. However, this Annex states correctly that it is not an exhaustive list. The Council believes the guidance wording should be changed to state that the applicant must be vulnerable, and that the decision maker should have regard to the vulnerabilities listed at Annex C in making this assessment. This is a discretionary scheme and the prescriptiveness of this guidance is in danger of removing necessary discretion.

Section 7.33 suggests that local authorities should consider whether it is possible and appropriate to offer an out of hours services for crisis grants. This suggestion is not appropriate given the limited administration grants being made available for the Scottish Welfare Fund which do not cover the cost of the service in normal working hours. The guidance should be silent on this aspect. Section 8.36 suggests that local authorities should consider an out of hours service for community care grants. This should not be necessary for community care grants where the target processing time is 15 working days.

See also response to question 18 above which proposes changes to guidance at sections 4.39, 7.6 and 7.26.

We consider that it would be useful to provide more clarity in the guidance about when the 30% and 60% tables should be used and also amounts that should be provided for emergency fuel. These are the areas where our decision makers find most difficulty in applying the current guidance.

### 3) VIEWS ON THE APPLICATION FORM

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

A combined CG and CCG application form	<input type="checkbox"/>
2 separate application forms	<input checked="" type="checkbox"/>

Please tick your chosen option.

Please explain your answer:

The current application form at 28 pages is too lengthy for Crisis situations and it would be much better to have a simpler and shorter form for this.

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?

In relation to items applied for, the question “how much do you think it will cost” is not essential as local authorities will have an expectation of the costs that should apply.

Any online application form should similarly ask what items the customer needs rather than providing a list of items to be selected from as this encourages requests for items which are not essential in the particular circumstances.

In our experience, these forms are much better completed with assistance from a support worker or from a local authority staff member working on Scottish Welfare Fund claims. Lengthy forms are off putting particularly when a person is in crisis. Frequently people do not describe their situation very well when filling in the form themselves, and further contact has to be made with them before the assessment of the claim can be completed.

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?

There should be two versions of the form, one for crisis grants, and one for community care grants. Online versions of the form, which should be mobile adaptive, should be available which directly link in to all the main SWF systems in use. This recognises that most applicants and their support workers have mobile phones or other devices which can access the internet, and this can help speed up processing and make the administrative process, which is costly and cumbersome, more efficient.

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