

Consultation Questions

Please use this version if you wish to fill the form in electronically. To use this form, use tab / shift-tab keys to move between fields, and type your responses. Save the form, and email to consultation@spsso.org.uk

If you wish to respond by printing the consultation and filling in the responses by hand, please download the document called "SWF consultation questions print version" from our website, or contact us to receive a copy.

Respondent information form

This information must be completed and returned with your comments in response to the consultation to ensure that we handle your submission appropriately.

About you

Name: Fergus Walker

Email address: fergus.walker@argyll-bute.gov.uk

Organisation (if applicable): Argyll and Bute Council

Address: Witchburn Road, Campbeltown

Postcode: PA31 8RT

Phone number: 01586 555237

Permissions

If you are responding as an individual, please fill in section A. If you are responding on behalf of a group or organisation, please fill in section B.

Section A	I am responding as an individual
Do you agree to your response being made available to the public, including on the SPSO website?	Please let us know your answer (yes or no):
Where confidentiality is not requested, we will make your responses available to the public on the following basis: (please select one option):	Please let us know your answer (Option A, B or C):

<p>Section A</p> <p>a) Yes, make my response, name and address all available</p> <p>b) Yes, make my response available, but not my name and address</p> <p>c) Yes, make my response and name available, but not my address</p>	<p>I am responding as an individual</p>
<p>We may wish to contact you in the future to discuss the issues you raise, but we require your permission to do so. Are you content for us to contact you again in relation to this consultation exercise?</p>	<p>Please let us know your answer (yes or no):</p>
<p>Section B</p> <p>The name and address of your organisation will be made available to the public and may be included on the SPSO website. Are you content for your response to be made available?</p>	<p>I am responding on behalf of a group or organisation</p> <p>Please let us know your answer (yes or no): Yes</p>
<p>We may wish to contact you in the future to discuss the issues you raise, but we require your permission to do so. Are you content for us to contact you again in relation to this consultation exercise?</p>	<p>Please let us know your answer (yes or no): Yes</p>

Responses can be sent by email to: consultation@spsso.org.uk or by post to: SWF reviews consultation, Scottish Public Services Ombudsman, FREEPOST EH641, Edinburgh, EH3 0BR . Please respond by Friday 27 November 2015

If you have any questions, please contact us on 0131 240 8845.

Consultation Questions

We are keen to have as much feedback as possible, so please comment on any aspect of the documents. For each document there is a general question but we have also some specific questions which set out points on which we are particularly keen for views.

Questions on Annex A: Draft Statement of Practice

- 1. The draft Statement of Practice sets out our approach to handling Scottish Welfare Fund decision reviews. What are your thoughts about our approach?**

This approach appears to be well balanced in terms of catering for the needs of the individual claimant and the local authority. The claimant will get a fair and proper independent appeal. The local authority should benefit from good quality, independent decision making which may also reflect the need to improve processes internally wherever they are found to be sub standard. This approach should be welcomed by all.

- 2. Should there be any changes to the principles (either to add or remove any of the principles we have listed)?**

Please let us know your answer (yes, no or don't know):No

If you would like to add any comments, please type them here

- 3. Do any of the individual sections of the Statement of Practice conflict with the key principles (Section A)?**

Please let us know your answer (yes, no or don't know):No

If you would like to add any comments, please type them here

- 4. Have we correctly identified the minimum information that needs to be provided by us about how to apply for a review (Section B)?**

Please let us know your answer (yes, no or don't know):Yes the information about the process will be available and accessible to claimants and it clearly tells the claimant how long the process will take. This is the key piece of information they need.

- 5. We have set out what we consider to be the minimum information we need to receive to start the process of a review (Section C) – do you agree this is the minimum we need?**

Please let us know your answer (yes, no or don't know): Yes it is perfect. It allows the claimant flexibility and flexibility for the SPSO should they wish to tighten things up in the future in terms of the channels that they may wish to go down to take an appeal. We also like the use of the words "if available" in terms of the reasons that a claimant may think that the review decision was wrong. Some claimants may struggle to articulate why they think their review is wrong but this will allow them to proceed with the independent review process in any case. SPSO already has powers to conduct full reviews of all claims and therefore it is sensible to operate in this manner.

6. Relating specifically to Section D (Application for review by someone other than the applicant), do you agree with the general approach to obtaining consent?

Please let us know your answer (yes, no or don't know): Yes

The removal of any perceived barriers is key and the statement of practice gives sufficient flexibility to remove the barrier of applied consent where a claimant is represented by a support worker for example. The most straightforward approach is the best i.e. relying on consent given to the local authority for that person to represent a claimant in the initial application is good enough for SPSO review. This will ensure that the overall process from the initial application to the completion of the second review is as efficient as possible, with little disruption if any for the claimant.

7. Do you have any comments on the additional matters about consent in the notes to Section D?

As in 6 above re obtaining consent. Part 2 on who can represent someone who cannot consent is also agreed.

8. Do you have any comments on the proposed approach to evidence (Section E).

We are satisfied with the proposals for considering evidence. Clearly in cases where the SPSO may wish to conduct visits to the applicant's home or other relevant location then geography and transport links to some places in Argyll and Bute could be an issue, and there may also be child care considerations for the applicant. Video conferencing facilities are available in Council offices in most locations and this option should be used to facilitate evidence gathering from the decision maker where this is required. Claimants could also use these facilities but they might be reluctant due to the fact they are in Council offices. Oral hearings may be difficult for

the Council and claimant to attend due to distance and we would prefer that this method of evidence gathering is not used unless it can be conducted using video conferencing technologies or similar.

9. We have outlined our process for obtaining information (Section F). What do you think about the process?

It looks reasonable and fit for purpose, can't think of anything else to add.

10. If anyone refuses to be interviewed or to allow a visit, we say that we may take a negative inference from this (Section G). What do you think about this?

The Council agrees with this approach. Visits in Argyll and Bute can be logistically challenging due to its size and geography, but if the SPSO insist on conducting a visit to gather evidence then the party whom they are visiting should accept this. If they don't comply, then it is correct to take a negative inference from it generally.

11. Local authorities can challenge mistakes at the end of the review process. However, if new information from a third party is likely to change a decision in the applicant's favour, should the ability to comment or challenge be extended to the local authority (Section H)?

Please let us know your answer (yes, no or don't know):No

If new information becomes available from a third party during a review that would in the view of the SPSO change the initial decision, then the information should be given to the local authority to allow them to reconsider the original decision. The local authority's original decision should be upheld by the SPSO in light of the fact that the LA did not have this new information at the time of the original application. If the authority assesses the new information and it doesn't change the original outcome, then they can refuse the revised application and the review process (internal review then external) would start again. If they accept that the new information should result in a different decision in the claimant's favour, then an award is made under the terms of the new information which the claimant can appeal if they wish to in the normal way. Local authorities shouldn't need to have the ability to comment or challenge so long as they are allowed to consider the new information as a reconsideration or a new application for support.

12. We have suggested the order in which we will approach decision-making (Section I). Do you agree with this?

Please let us know your answer (yes, no or don't know):Yes this order is consistent and sensible

13. We have laid out what information we will include in all decisions (Section K). What other information should we include in this section (if any)?

None, this is good enough.

14. Where there is a change in circumstances following the decision by the local authority (Section M), do you agree with the approach we plan to take?

Please let us know your answer (yes, no or don't know): Yes

15. We have set out the timescales we intend to work to (Section N). What do you think about these?

These are reasonable and in line with the timescales set by the previous independent review of the Social Fund.

16. We have outlined scenarios for an instance when we receive a possible complaint alongside a request for review (Section O). Are the scenarios clear?

Please let us know your answer (yes, no or don't know): Yes

17. What should we let people know about the information they disclose to us (Section P)?

They should be of the understanding that the information will only be used to assist the decision making in respect of their appeal and will only be disclosed to the local authority in the final decision letter. These decision letters will be handled securely, given the sensitive nature of the information, by both the SPSO and the local authority.

18. Do you have any other comments on particular sections of the draft Statement of Practice?

(Please use this section to also draw our attention to any points that haven't been covered in the previous questions. If you are commenting on a particular part of the Statement of Practice, please state which section(s) you wish to make comment on)

No

Questions on Annex B: Draft rules on the conduct of oral hearings

19. Do you have any general comments on the rules?

The timescales are reasonable in our view and the process looks to be fine generally.

20. Do you have any comments on the individual rules (please state which sections)?

Rule 7(3): It is sensible to allow evidence to be given via live television link or video conferencing facilities in many cases. It would be rare that this would prejudice proceedings.

21. Do you think there is anything else we should include in the rules?

No

22. What steps do you think we can we take to make sure oral hearings remain informal and accessible, particularly to an unsupported applicant?

Hearings should not be held on Council premises where possible. Casual dress should be encouraged for all parties as some appellants may find formal wear intimidating

Questions on Annex C: Proposed approach to an Equalities and Human Rights Impact assessment

23. What are your views on the general approach?

We are satisfied with the general approach

24. What other sources of information do you think would be useful for our analysis?

None, the sources of information that you have identified should provide you with the information you require.

25. What issues in terms of equalities and human rights do you think we will need to consider in our analysis?

Accessibility of the service should be considered for all and any other common issues that you identify coming through the reviews should be fed back to local authorities to address any issues that may arise. The rights of the appellants should be reinforced throughout the process from the initial claim through to the second review. It is also important to be clear and transparent with claimants ensuring that decisions are communicated clearly and that the claimant understands the options that they have available to them going forward in the process.

26. Do you know of examples of good practice that we could learn from?

The equalities work carried out by the Scottish Government in setting up the Scottish Welfare fund would provide a good example for you to learn from.

27. How do you think we could best support improvements to the broader scheme?

By providing quality feedback to local authorities and the Scottish Government in terms of management information and in some circumstances on specific cases where something has gone wrong in particular.