

Call for Evidence by the Social Security Committee on the Social Security (Scotland) Bill

Background

1. The Scottish Public Services Ombudsman (SPSO) provides the independent review service for the Scottish welfare funds. In our role as independent reviewer we can directly consider and change decisions made by local authorities¹. In 2016/17 we made 437 determinations: 230 community care grant reviews and 207 crisis grant reviews.
2. The SPSO is also the final stage for public sector complaints including complaints about local authorities and Scottish Government agencies. As well as considering individual complaints, the SPSO plays a key role in supporting improvements in complaints handling.
3. In responding to this call for evidence, we wanted to share our experience of making review decisions which we consider is directly relevant and to explain what the role of SPSO will be in relation to the proposals in the Bill.

The SPSO's experience

4. We would like to highlight the following aspects of our experience:
 - Engagement and consultation
 - The inquisitorial approach
 - Using reviews to support improvement

Engagement and consultation

5. In preparation for the role of Scottish Welfare Funds Reviewer we undertook a program of engagement and consultation. We were supported by two 'Sounding Boards': one with representatives from the Scottish Government and Councils, and one with representatives of potential users of our service. This process directly informed the legislation, the review process itself, the training we put in place for staff and the information we produced for applicants.
6. The engagement process did not end with the creation of the review service. It continues and we have found this has remained of significant benefit. Throughout our first year, it has allowed us to have open and regular dialogue with representatives of

¹ Our annual report with more detail about our work is available here:
<https://www.spsso.org.uk/scottishwelfarefund/statistics>

users and local authorities. This has not only supported our service but has also supported local authorities.

The inquisitorial approach

7. As an Ombudsman, I and my office, take an inquisitorial approach to the review service. This means we can support people throughout their application but equally we must ensure we remain independent and impartial and have all the relevant facts and evidence before coming to our objective decision.
8. To explain how this looks in practice: we will have an initial conversation with the applicant when they make their application. In that conversation, we will explain our process and take some information from them. We will then gather evidence and then talk to them again *before* making a decision to confirm we have fully understood the situation. Finally, we will also call to explain the decision before they then receive this in writing.
9. We make specific reference to phone contact because that is the method most applicants use to access our service. It is also very significant, as, in response to comments received during early engagement, we asked the Scottish Government to ensure we were not restricted to taking reviews in writing (the position under the previous scheme). The legislation specifically says we can take complaints orally as well as in writing. In our first year, 72% of applications were taken over the phone and, while we are still in the early stages of the scheme, it seems likely that this innovation is behind a significant increase in the number of crisis grant review requests we have seen compared to the previous scheme. It helps us make better decisions because it improves our understanding and enables us to reach our conclusions quickly. We are also finding that applicants really appreciate direct contact with the decision-maker and to discuss their application personally.

Using reviews to support improvement

10. Reviews provide an important tool for improving the service provided by initial decision-makers. We see a small proportion of all the decisions that are made across Scotland but do seek to draw maximum benefit from the ones we see to support improvement.
 - We not only review the decision but will feedback on any failings we find.
 - We use the two-way dialogue with our local authority and user sounding boards to feedback on any themes/trends and also to provide advice and support.
 - Each month we provide a commentary which we share with local authorities which includes case studies which provide specific learning.
 - We have issued annual letters to each local authority with information about their individual performance
 - This year, our learning and improvement unit is committing specific time and resource to see how we can further support local authorities improve their services.

The SPSO's role

11. As a Government Agency, the proposed Social Security Agency will automatically come within the jurisdiction of the SPSO. This means that they will need to ensure they have a complaints process that complies with the principles approved by the Parliament and with the SPSO's model complaint-handling process. It also means that our Complaints Standards Authority will be able to provide them with support and advice, and they will be able to access SPSO training.
12. We are pleased to inform the Committee that we have already had contact with, and are in active discussion with, the Scottish Government about how the proposed new agency will handle complaints (about services) and the support we can provide.
13. Because the new agency will come under our jurisdiction, we will be able to take complaints about them. We have separately written to the Finance Committee to say that the impact on us in terms of numbers and therefore resources is uncertain. This is partly because it is genuinely difficult to assess complaints numbers before a system is in operation. It also reflects that the Bill puts in place an appeal route to a Tribunal. It is our experience that such routes can limit the complaints received. For example, we have had extremely few complaints about Revenue Scotland. We have, though, had discussions with the Scottish Government to try to understand the possible impact in more detail and will be seeking to understand better what complaints are made in the current system.
14. As the committee will be aware we are a Parliamentary-supported organisation and we will be keeping the SPCB fully informed of any actual or potential impact on us.
15. We note the Committee is interested in the proposed charter. Our ability to take complaints would include the ability to take complaints about failings to meet the standards in the charter.

Conclusion

16. We hope the Committee find our experience as the Independent Scottish Welfare Funds Reviewer is helpful. We have heard from our applicants about the difficulties they experience in the current system, particularly around delays in benefits and sanctions and know others will be highlighting to you improvements that can be made. We would highlight the three key lessons from our experience:
 1. The benefits from engagement not only come during the creation of systems but also continue through implementation;
 2. A process which does not rely solely on written applications, and which uses inquisitorial techniques improves accessibility; and
 3. It is important to ensure processes and tools are in place to ensure the new agency can learn and improve from listening to the experience of its users.