

Agenda Item	6
Report No	AS/12/18

HIGHLAND COUNCIL

Committee: Audit and Scrutiny Committee

Date: 20 September 2018

Report Title: Scottish Public Services Ombudsman (SPSO) Annual Report on the Scottish Welfare Fund Independent Review Service 2017/18

Report By: Report by the Deputy Chief Executive and Director of Corporate Resources

1. Purpose/Executive Summary

- 1.1 The Scottish Welfare Fund (SWF) is a national scheme, underpinned by the Welfare Funds (Scotland) Act 2015, and delivered on behalf of the Scottish Government by all 32 local authorities. In Highland, the Fund is administered by the Service Delivery Team with policy developed by the Benefits & Welfare Team both within the Revenues & Customer Services section.
- 1.2 This report highlights the key findings and recommendations from the Scottish Public Services Ombudsman's (SPSO) Annual Report on the Scottish Welfare Fund Independent Service for 2017/18.

2. Recommendations

- 2.1 Members are asked to:
 - Note the Council's outstanding 100% performance for processing SWF applications within the statutory timeframes.
 - Recognise that from 6,130 SWF applications received by the Highland Council, the SPSO received 17 valid requests for 2nd tier reviews (0.3%) and changed the Council's decisions in 7 cases (0.1%)
 - Note that nationally the SPSO change 87% of Council decisions at 2nd tier review whilst the change rate for Highland is much lower at 41%. Also that the SPSO changed 33.4% of their own decisions upon reconsideration.
 - Recognise that the most common reason for changing a decision is that the new information becomes available after the original decision.
 - Take cognisance of the pivotal role undertaken by Officers as per para 11.3.

3. Background

- 3.1 The Scottish Welfare Fund aims to provide a safety net for people on low incomes through the provision of Crisis Grants and Community Care Grants.
- 3.2 From April 2016, the Scottish Public Services Ombudsman (SPSO) assumed responsibility for undertaking independent 2nd tier reviews of SWF applications. Prior to that, each local authority undertook these reviews through independent officers who had no connection to the case under review. The Benefits & Welfare Manager was responsible for 2nd tier reviews within Highland from April 2013 to March 2016.
- 3.3 Appendix 1 of this report details the SPSO 2017/18 SWF annual statistics for Highland. The SPSO's published 2017/18 "Annual Report on the Scottish Welfare Fund Independent Review Service" is available at the following link: <https://www.spsso.org.uk/news-and-media/scottish-welfare-fund-independent-review-service-annual-report-2017-18>
- 3.4 The Welfare Funds (Scotland) Act 2015 specifies that grants do not need to be paid back and are intended to meet one-off needs rather than on-going expenses.
- 3.5 Local authorities must take account of their Corporate Parenting responsibilities in the delivery of their Welfare Fund, to uphold the rights and secure the wellbeing of looked after children and care leavers. In the context of the SWF, this may mean:
- being aware of issues which could affect the wellbeing of care experienced young people (CEYP)
 - being aware of the likelihood of how/when CEYP might apply to the SWF
 - promoting the interests of CEYP
 - providing CEYP with opportunities.

4. The Scottish Welfare Fund Scheme

- 4.1 The Scheme is made up of 2 types of Grants. Crisis Grants are provided where an individual is facing a disaster or emergency situation, and where there is an immediate threat to the health or safety of that individual or their family. Community Care Grants are provided where a qualifying individual needs help to establish or maintain a settled home and for those facing exceptional pressure.

5. Fulfilment

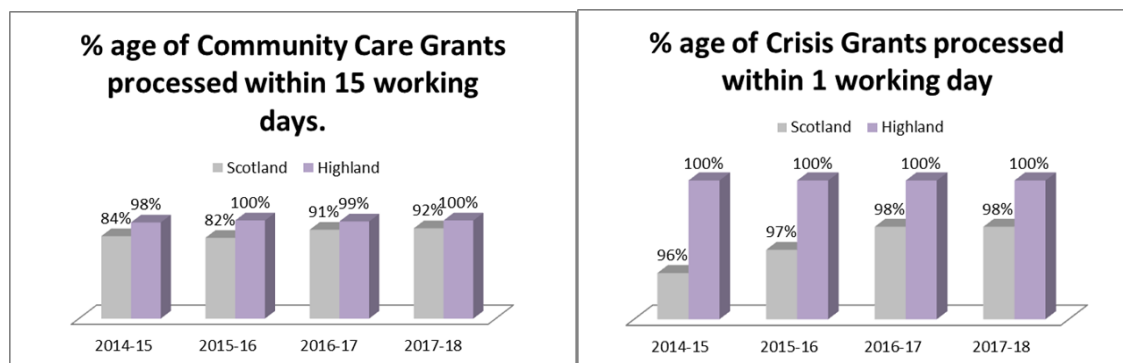
- 5.1 Grants can be fulfilled through cash payments (or equivalent, eg vouchers), goods and services.
- 5.2 In Highland, cash payments are made via SMS messages that can be redeemed at relevant outlets nationally and across Highland. Led by the Benefits & Welfare Manager, and supported by the Shared Procurement team, goods and services are procured via contracts with 2 local suppliers. In addition to providing value for money, a number of community benefits are being derived from these contracts. For example, both suppliers are creating local employment and other training opportunities; 2 Modern Apprenticeships are being provided including for looked after children; and one of the suppliers has been adopted by Dingwall Academy as a Business Partner.

6. Target Processing Times

6.1 The Regulations require local authorities to make decisions on Crisis Grant applications immediately after the local authority has received all information allowing a decision to be made, and in any event, no later than the end of the next working day and within 15 working days for Community Care Grants.

6.2 As evidenced in the table at paragraph 6.3 below, the Highland Council performs very well at deciding Scottish Welfare Fund applications within the statutory processing times as set out at in paragraph 6.1 of this report.

6.3



7. Scottish Welfare Fund 1st Tier Review process undertaken by local authorities

7.1 If an applicant disagrees with the outcome of their Welfare Fund application they may request, within 20 working days of receiving the decision, the local authority to undertake a 1st tier review. Such reviews must be undertaken by a decision maker who was not involved in making the original decision. The 1st tier review offers an opportunity to reconsider the original decision based on a revision of the evidence and any new information which becomes available.

7.2 The maximum processing time allowed for in the Regulations, for a 1st tier review of a Crisis Grant application, is no later than the end of the second working day after that on which the request was received and no later than the end of the fifteenth working day for Community Care Grants.

7.3 The total number of grant applications and requests for 1st tier reviews received by the Council during 2017/18 are provided in the table at paragraph 7.4 below. Also included is an analysis of the percentage of requests for 1st tier reviews that result in a change to the original decision. In the majority of changed cases, new information and evidence from the applicant enabled a changed decision to be made.

7.4

THE HIGHLAND COUNCIL SWF APPLICATIONS	Number of Applications	Number of 1 st Tier Reviews	Reviews as % of applications	% 1 st Tier Reviews upheld
Total SWF applications	6,130	135	2.2%	29.6%
Crisis Grant	4,330	60	1.4%	58.3%
Community Care Grant	1,800	75	4.2%	53.3%

8. Scottish Welfare Fund 2st Tier Review process undertaken by the SPSO

- 8.1 The Scottish Public Services Ombudsman's (SPSO) Scotland-wide SWF Review Team comprises 6 members of staff. This includes a team manager, 4 case reviewers and a team assistant. The SPSO has confirmed to the Highland Council their SWF Review team had a total budget during 2017/18 of £439,000.
- 8.2 If the applicant is still dissatisfied by the outcome of the 1st tier review by a local authority, they can request the SPSO to carry out an independent 2nd tier review. In practice, applicants may request a second tier review when they have:
- applied to the council for a Crisis Grant (CG) or Community Care Grant (CCG); and
 - asked the council to review their decision (first tier review); and
 - is unhappy with the council's decision.
- 8.3 The SPSO considers whether the council made the correct decision based on the circumstances. The SPSO can decide:
- not to change the council's decision;
 - overturn the council's decision in part, or in full (i.e. make a different decision); or
 - send the case back to the council to remake their decision.
- 8.4 If the SPSO overturns a decision, they will direct councils to make awards which will either alleviate crisis situations, or provide essential items to help applicants set up or to continue to live independently in the community. The SPSO will also make suggestions for improvements where they consider practices can be improved.
- 8.5 The SPSO's processing times for determining 2nd tier reviews in respect of Crisis Grant applications are within 1 working day from receipt and within 21 working days for Community Care Grants. Nationally, the SPSO reviewed 606 cases during 2017/18 and closed 331 requests prior to the commencement of the review process for a variety of reasons including applicants withdrawing their request or premature requests where the applicant had not concluded the 1st review process as described at section 7 of this report.

9. National and Local Outcomes

- 9.1 Nationally, the SPSO changed local authorities' original decisions for Crisis Grants in 35% of those cases under review and 52% for Community Care Grants. The comparative figures for 2016/17 are 32% for Crisis Grants and 43% for Community Care Grants.
- 9.2 In their national published report, the SPSO states *".. there were increases in our uphold rates for both CG [Crisis Grants] and CCGs [Community Care Grants] in comparison to last year. We continue to monitor this, but the most likely reason for the change is an increase in the number of cases we uphold because we have new information that the council could not reasonably have had access to."*
- 9.3 In the Highland context, the SPSO received 21 enquiries and closed 4 prior to a review decision. Of the 17 cases that progressed to review, the SPSO did not change 10 (59%) of the Council's original decisions; changed 3 (18%) Crisis Grant decisions; and 4 Community Care Grant decisions. In the case of the 4 (23%)

Community Care Grant review cases, applicants provided new information/evidence to the SPSO that enabled a changed decision to be made.

- 9.4 When considered appropriate to do so, the Council's Client Manager will ask the SPSO to reconsider their decisions. Nationally, such requests resulted in the SPSO changing 33.4% of their original decisions during 2017/18 and 10.8% during 2016/17. In the majority of cases (28.6%), the SPSO changed their decisions as a result of receiving new information during the reconsideration process.

10. SPSO Performance information

- 10.1 The SPSO's performance and internal targets are set out in the table below at paragraph 10.2.

10.2

2nd Tier Reviews undertaken by the SPSO	2016/17		2017/18	
	Target	Achieved	Target	Achieved
Crisis Grant – 1 working day	95%	99.5%	95%	99.3%
Community Care Grant – 21 working days	95%	97.8%	95%	99.4%

11. SPSO Review team – SWF improvements

- 11.1 Where the SPSO identify potential or actual failings, they record suggestions for improvements which they highlight directly to councils. This is undertaken for all cases, regardless of the decision outcome. For transparency, improvement suggestions are included in the decision letters to applicants.
- 11.2 The SPSO noted that less than 10% of Councils have a Freephone number and noted that this was recognised on several occasions as being a barrier to the application process. The Highland Council has operated a Freephone application number since the launch of the Scottish Welfare Fund in April 2013 and has always accepted online and paper applications.
- 11.3 This Council continues to play a pivotal role in the development of the Scottish Welfare Fund. Officers within the Revenues & Customer Services team are proactive in helping shape SWF policy within Scotland. This includes:
- Submissions to consultations and attendance at working groups to inform national policies.
 - Represented by the Business Support & Development Manager, the Council was one of only 2 authorities in Scotland invited to work with the Settlement and Distribution Group (SDG), CoSLA and the Scottish Government, to review the funding distribution formulae. This resulted in formulae changes that are now based on the Scottish Index of Multiple Deprivation. For Highland, this resulted in a funding increase of £657k over the last 3 years.
 - As one of 8 Local Authorities, officers participate in the Local Authority/SPSO sounding board which reports on casework received by the SPSO, gathers

feedback, imparts information and identifies best practice.

- In May 2018, the Benefits & Welfare Manager was invited to give evidence to the Scottish Parliament's Social Security Committee about the impact Universal Credit has had on the Scottish Welfare Fund.

12. Implications

- 12.1 Resource – the resource implications are set out in this report and are managed within the Revenues & Customer Services section. As reported to the corporate Resources Committee on 29 August 2018 (Item 7), the annual budget for the Scottish Welfare Fund is £1.106m which is forecast to come in on budget by the year end.
- 12.2 Legal – the Scheme is administered in accordance with The Welfare Funds (Scotland) Act 2015 which places a statutory duty on the Council to make available a Welfare Fund.
- 12.3 Risk – there are no risk implications arising from this report.
- 12.4 Equality, Climate Change, Carbon Clever, Rural and Gaelic – the contracts for commissioned new and second hand goods are committed to zero waste and are effectively contributing to reducing landfill waste. For example, 7.8 tonnes of waste have been diverted from landfill since the commencement of the new goods contract (April 2013).

Designation	Depute Chief Executive/Director of Corporate Resources
Date	7 September 2018
Author	Allan Gunn, Head of Revenues & Customer Services Sheila McKandie, Benefits & Welfare Manager
Background Papers	SPSO Annual Report 2017/18

2017-18 SWF statistics

The statistics below provide information about the reviews received from applicants in your area and compare these to the overall picture of reviews across Scotland.

For comparison purposes, we have also included last year's figures.

We record cases as upheld where we change the council's decision. Uphold rates are therefore a useful indicator of how councils are performing as they illustrate how regularly we assess that a different decision should have been made. For councils with very low numbers of SPSO reviews, the uphold rates and comparisons are likely to be less representative. However, recording the uphold rates helps create a baseline for comparison in future years.

The average uphold rates in 2017-18 were (last year's figures in brackets):

- 35% (32%) for crisis grants
- 52% (43%) for community care grants.

The tables below summarise the total number of enquiries we handled, cases that we closed before decision and decision outcomes. Examples of the reasons for closing applications before making a decision include where applicants have contacted us before asking for a first tier review, before receiving their first tier decision (premature) or have chosen to withdraw their review request (Not duly made or withdrawn).

Authority	The Highland Council
Total Enquiries	21 (29)

The Highland Council – cases closed pre-decision			
Outcome	Community Care	Crisis	Total
Advice only	1 (4)	1 (9)	2 (13)
Out of jurisdiction	0 (1)	0 (0)	0 (1)
Premature	0 (7)	2 (3)	2 (10)
Total	1 (12)	3 (12)	4 (24)

Application Type	Total Decisions	Not Upheld	Upheld	Uphold Rate	National Average Uphold Rate
Crisis	11 (4)	8 (3)	3 (1)	27% (25%)	35% (32%)
Community Care	6 (1)	2 (0)	4 (1)	67% (100%)	52% (43%)
Total	17 (5)				

Suggestions for improvement

Where we identify potential or actual failings, we record suggestions for improvements which we highlight directly to councils. We do this for all cases, whether or not we uphold them. For transparency, we include these in our decision letters to applicants.

We have outlined the findings we have recorded for your council broken down by the 'findings subject' and whether or not they were material to the decision. For clarity, findings which are material to the decision cause us to disagree with the overall decision, whereas non-material findings are general suggestions for improvement.

This information provides detail around the areas of your casework where we considered improvements could be made, and we anticipate this will be used for identifying areas of focus for learning. As a result of feedback from councils on our annual letter last year, we have amended the covering letter we send to councils with each decision to include more detailed information about our findings. Examples of our findings and further information regarding the findings categories are contained within our annual report. Councils have also been provided with detailed case by case feedback throughout the year.

We hope you find this helpful. If you would like to discuss this with them, or how we might provide learning support, please get in touch with the SWF team 0800 014 7299.

Authority	The Highland Council
Total findings	21 (4)

Findings: Material to Decision		
Subject	%	Total
Guidance not followed	29% (0%)	2 (0)
Incorrect interpretation of information	14% (100%)	1 (1)
Insufficient information/ inquisitorial failure	14% (0%)	1 (0)
New information provided	43% (0%)	3 (0)
Total	100% (100%)	7 (1)

Findings: Not Material to Decision		
Subject	%	Total
Communication issues – written	50% (33%)	7 (1)
Guidance not followed correctly	7% (33%)	1 (1)
Insufficient information/ inquisitorial failure	7% (0%)	1 (0)
Internal council recording issue	21% (0%)	3 (0)
Positive feedback	7% (0%)	1 (0)
Timescales	7% (0%)	1 (0)
Other	0% (33%)	0 (1)
Total	99%* (99%*)	14 (3)

*percentages may not equal 100% due to rounding