

SCOTTISH GOVERNMENT CONSULTATION ON THE WELFARE FUNDS (SCOTLAND) ACT REGULATIONS AND GUIDANCE

ENGENDER RESPONSE, AUGUST 2015

INTRODUCTION

Engender welcomes the opportunity to respond to this consultation on the Welfare Funds (Scotland) Act regulations and guidance. Tackling women's economic inequality within the social security system is a key pillar of our work and we have called on the Scottish and UK Governments to address the enormous gender impact of welfare reform, alongside other women's organisations in Scotland.¹

Cuts to public spending on benefits, tax credits and public services under the UK Coalition Government have had, and will have, a devastating impact on women and therefore on their children. Analysis by the House of Commons Library estimates that 70% of the additional £34bn pounds of savings to be made by 2020/21 announced in the 'summer budget' will come from women's pockets.

This means that low-income women will experience even greater difficulty in accessing resources and support in the years ahead. Where women's disposable income is reduced, spending on children decreases and links between women's and children's poverty are widely recognised. The Scottish Welfare Fund (SWF) must therefore be tailored to support different groups of women, or else it will not deliver for many of those most in need, and sexist patterns of inequality within the social security system will be reinforced.

The current Scottish Government has renewed its commitment to make progress towards gender equality,² and the First Minister has pledged to make this a priority under her leadership. The Scottish Government has also announced intentions to use new powers over social security to introduce policies that tackle discrimination against women.³

However, an opportunity for the SWF to lead by example in this respect is being missed. The context of extreme gender inequality within austerity and welfare reform has not been adequately reflected in the interim SWF, or in the draft regulations and guidance. We are calling on the Scottish Government to redress this by mainstreaming gender in the regulations and guidance. This will lay the foundations for targeted support for different groups of women currently at risk of harm in Scotland.

¹ Engender (2015) [A widening gap: women and welfare reform](#)

² Scottish Government (2015) [One Scotland: Programme for Government 2014-15](#)

³ For example to address the monthly payment under Universal Credit and to increase carers allowance.

1. GENDER MAINSTREAMING

We strongly advocate that a gender perspective is written into the regulations and guidance. Gender mainstreaming is urgently needed in public policy setting in Scotland. This is the internationally-agreed approach to tackling gender inequality, adhered to in principle by the UK and Scottish Governments.⁴ Conversely, failure to explicitly acknowledge relevant gendered discrimination in legislation that underpins social security policy will make women's inequality invisible and risks compounding it. To date, this Scottish Government and previous administrations have failed to integrate gender perspectives or apply gender mainstreaming to most economic and social policymaking.

Between 2010 and 2014, 85% of the £26 billion worth of cuts announced by the UK Coalition government fell on women's incomes.⁵ This is because of systemic gender inequality that sees women twice as dependent on social security as men. Women are four times as likely to give up paid work because of multiple caring responsibilities, 92% of lone parents are women, the pay gap persists at 32% for women's part-time work in Scotland, women have less access to resources, assets and occupational pensions, and women's economic independence is undermined by endemic domestic abuse.

Many women who experience multiple discrimination are even more at risk of extreme hardship. Disabled women, older women, women from BME communities, rural women, and refugee women are all impacted by policy changes and cuts to services in particular ways.

Amending the guidance to reflect this context would help to support consistent application of the fund across local authorities and to avoid a postcode lottery developing for women in need of support. Although the updated SWF guidance reflects important learning since initial implementation of the fund, apart from a single reference to women's aid refuges, it remains gender-blind. Recognition that women are the largest group to be systemically disadvantaged by welfare reform would send a positive and important signal to local authorities, other parts of Scottish Government and wider stakeholders about the importance of gender as a key dimension of social security and anti-poverty policy.

This recommendation is echoed in the Welfare Reform Committee's report on women and social security,⁶ which calls on *"both the Scottish and the UK Government [to] demonstrate the gender impact of their policy decisions and take steps to mitigate these"*. The Committee also recommends that the Scottish Government *"use the opportunity offered by the devolution of new powers to examine the services required to better support those in need [and] create an action plan for how it is going to mitigate the impact of welfare reform on women."* The SWF could be more effectively engaged to help achieve this ambition.

⁴ Gender mainstreaming was established as a global strategy in the UN Beijing Declaration in 1995.

⁵ Engender (2015) [A widening gap: women and welfare reform](#)

⁶ Scottish Parliament (2015) [Welfare reform committee: women and social security](#)

2. CONSULTATION QUESTIONS

2.1 Defining low income

1. *Is it a problem that Local Authorities use different ways to decide whether a SWF applicant is on a low income to check that they are eligible for an award?*
2. *What is the best way for an LA to decide that a SWF applicant is on a low income?*

A broad list of approved low-income indicators to guide decision-makers would help to reduce inconsistent application of the fund across local authorities. Nonetheless, the ability to grant awards based on individual circumstances that might not be covered by such a list must be maintained.

Hinging eligibility on the receipt of certain benefits, for example, could exclude various groups of women from accessing the fund. Cuts to support for mothers were announced in the summer budget, Universal Credit is paid to only one claimant in the household, refugee women are left without support during transition between the immigration and benefits systems, benefits for EU migrants have been restricted, disabled people and unpaid carers are set to lose entitlements due to the introduction of PIP, and many lone parents (92% of whom are women) will lose housing benefit as a result of the benefits cap.

There are various precedents that illustrate the danger of a narrowly defined approach within current welfare reforms. For instance, the 'bedroom tax' has resulted in a loss of housing benefit for many women, and making women's access to refuge accommodation contingent on housing benefit is threatening women's safety. This highlights the broader issue that rigid guidelines on income levels would be counter-productive.

2.2 Access to the fund

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?*

Access to the fund should be predicated on need and circumstances, not on an arbitrary cap on the number of separate awards granted. In addition to this basic principle, various groups of women would stand to be disadvantaged on account of their gender. The Scottish Government's own analysis of the gender impact of welfare reform recognises that gendered dynamics within the household must be taken into account.⁷ As we have set out in our advocacy against the single payment of Universal Credit to one member of the household,⁸ failure to protect women's economic independence can put women at direct

⁷ Scottish Government (2013) [The gender impact of welfare reform](#)

⁸ Engender (2015) [A widening gap: women and welfare reform](#)

risk of physical and financial abuse. Prescribing a set number of crisis and community care grants at the household level could undermine women's financial autonomy (where a partner had already accessed the fund), which in turn undermines women's ability to leave abusive relationships and seek secure accommodation.

As set out above, many groups of women will also increasingly be in need of discretionary short-term assistance due to further austerity and welfare reform cuts within the summer budget and Welfare Reform and Work Bill. Thousands of carers are losing an average of £105 per week in housing benefit as a result of the benefits cap⁹ and 74% of the carers allowance caseload is made up of women. Almost all lone parents are women, and 49% of households subjected to the benefits cap are headed by single parents with children under five.¹⁰ Yet again, disabled women will amongst the very hardest hit by these latest cuts. They are much less likely to be in full-time employment than non-disabled people, and many have caring responsibilities of their own. This is reflected in the fact that disabled men experience a pay gap of 11% compared with non-disabled men, whilst for disabled women this is doubled at 22%.¹¹

The consultation document for the SWF regulations and statutory guidance describes the fund as a "permanent and reliable safety net for people on low incomes". Particularly in light of past and future cuts to public spending at Westminster, this will not be the case for many low-income women if the fund is restricted as proposed from the outset.

2.3 Families under exceptional pressure

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

We see no reason that families under exceptional pressure, many of whom are headed by single women, should not be afforded the same access to both funds.

2.4 Dignity and choice

7. Which sorts of payment do you think are a cash equivalent that LAs should be able to use to pay SWF grants?

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?

Many third sector organisations have argued that dignity and choice should be key principles that underpin the structure and delivery of the SWF. This will be completely undermined if decision-makers, rather than applicants decide whether a cash equivalent would be most suitable. This position is in line with the Scottish Parliament's decision that cash payments should be the default grant awarded. Eliminating choice infantilises users of the scheme and contributes to the sense that people at the margins in Scotland are to be blamed for their own disadvantage and inequality.

⁹ Carers UK (2014) [Caring and Family Finances Inquiry](#)

¹⁰ DWP (2015) [Benefit Cap Quarterly Statistics: GB households capped to May 2015](#)

¹¹ Inclusion Scotland (2013) [Women in work MSP briefing](#)

Discretion over cash equivalents, regardless of an individual's circumstances, runs the risk of stigmatising people in receipt of the SWF and contributing to the current framing of benefits as a drain on the public purse. This framing is highly gendered, with lone mothers a particular focus for public critique and leads to consequences including social exclusion.

'In kind' payments also have significant implications for women living with violence and financial dependency. Women experiencing domestic abuse face considerable barriers when trying to leave an abusive partner. Access to financial support is crucial and many women lack an independent income or access to resources. Ongoing reforms to the benefits system are impacting adversely on women's ability to maintain financial independence and to be safely rehoused. It is vital that the SWF ensures that women are able to use the payment in line with their specific support needs and to decrease the risk of harm to themselves and their children.

2.5 Vulnerability and equality impacts

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

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

As set out in the section on gender mainstreaming above, the gendered implications of access to the SWF should be clearly articulated. For instance, lone mothers are particularly likely to be in increased need of support as a result of welfare reform. Women make up 95% of lone parents dependent on Income Support.¹² The broader barriers to equality that women face on account of their gender should also be reflected.

The instruments of the SWF should have a particular impact on the equalities groups most disadvantaged by welfare reform and in need of crisis support, including women. At present, women are not identified anywhere as having particular support needs, despite the clear gender profile of the eligibility criteria. The long list of vulnerabilities listed at Annex C to the draft guidance includes:

- Frailty or old age
- people fleeing domestic violence
- looking after children for a relative or friend as a kinship carer
- being a lone parent
- being pregnant, recent childbirth or adopting a child
- having responsibility as a main care giver
- a history of seasonal temporary or insecure work

This list is gender-neutral, but women make up the majority of each of these groups. We welcome the fact that access has been increased since the first iteration of the guidelines,

¹² Engender (2012) [Multiple Jeopardy: The impacts of the UK Government's proposed welfare reform on women in Scotland](#)

and that more women stand to benefit as a result of these identified vulnerabilities. However, this also demonstrates how women are made invisible in policymaking, and systemic gender issues are subsequently swept under the carpet. Clearly this could have potentially damaging impacts, where local authority staff and discretionary decision-makers may not automatically see the links with women's inequality or be aware of the bigger picture of women's increased risk of poverty due to austerity and welfare reform agendas.

We also remain concerned that some local authorities are not adequately recording disaggregated data on the uptake of the SWF, or the vulnerabilities of applicants with protected characteristics. We therefore regret that the Scottish Government has chosen not to regulate local authorities' requirement to provide statistical information and are opposed to proposals to reduce the frequency of reporting. This could lead to worse scrutiny of the fund and is a missed opportunity to help ensure that local authorities meet their obligations under the public sector equality duty. Equalities issues must be included in the non-specified form of joint working between Scottish Government and local authorities to monitor data and use of the fund, as proposed in the guidance.

We therefore look forward to working with Scottish Government officials as they develop the updated Equality Impact Assessment to accompany the regulations and statutory guidance, and welcome their engagement with Engender over this. Rather than go into additional detail here, we will address gender equality impacts of the guidance at this point.

2.6 Other issues

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.

Mainstreaming gender in the guidelines should include ensuring that different groups of women have the knowledge and means to access the funds. Groups of women that must be supported to access the fund include lone mothers, disabled women, black and minority ethnic women, refugee women, older women, carers, women struggling to access the labour market, women facing sanctions as a result of childcare responsibilities, and women at risk of domestic abuse and other forms of violence. Each of these groups face particular barriers in accessing resources and these should be reflected in the structures of the legislation and understood by those making awards.

Local authority staff making decisions on applications to the SWF must subsequently therefore receive training on gender equality issues and the impact of welfare reform on women. Scottish Government's inclusion of gendered case studies within a recent training package is a welcome step in that direction. Understanding of women's position in Scottish society is essential in order to make informed decisions about the extent of a woman's vulnerability and need. These decisions must comply with the public service equality duty and training would therefore help support local authorities to meet their responsibilities under the Equality Act 2010.

CONCLUSION

The consultation document for the SWF regulations and statutory guidance describes the fund as a “permanent and reliable safety net for people on low incomes [...that] requires local authorities to ensure that people who apply for welfare funds are treated with respect and that their dignity is preserved [...and] provides a lifeline to vulnerable people”. We wholeheartedly support this ambition, but believe that the gender-blind nature of the draft regulations and guidelines undermine the possibility of achieving this for women.

The challenge with an approach that is not gender-sensitive, but assumes that women be automatically included, is that it does not tackle the particular barriers that women face while accessing support and services, or take account of sexist cultures and assumptions that sustain them. Embedding gender equality imperatives into the legislative underpinnings for the fund would have a positive impact on the ability of local authority to target support at groups of women who are amongst those who need it the most.

We also recommend that the different groups of women egregiously disadvantaged by UK government spending cuts to social security identified throughout this response are actively targeted for uptake of the fund, through outreach and training, as well as in the guidance.

ABOUT US

Engender is a membership organisation working on feminist agendas in Scotland and Europe, to increase women’s power and influence and to make visible the impact of sexism on women, men and society. We provide support to individuals, organisations and institutions that seek to achieve gender equality and justice.

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