

**SCOTTISH
PUBLIC
SERVICES
OMBUDSMAN**



People Centred | Improvement Focused

Scottish Welfare Fund independent review

The Scottish Public Services Ombudsman (SPSO) independently reviews council decisions about Scottish Welfare Fund applications under the Welfare Funds (Scotland) Act 2015.

People apply to their council for Scottish Welfare Fund (SWF) grants. The council makes decisions on those applications and any first tier reviews. Since 1 April 2016 the council no longer considers second tier reviews. Instead, people will apply to us at the SPSO for an independent review.

We are also able to consider complaints about how an applicant was treated by the council.

Find out more about the Scottish Welfare Fund by visiting
www.gov.scot/Topics/People/fairerscotland/scottishwelfarefund

The review process

Criteria for asking for an independent review

Applicants can only ask us for an independent review after the council has given its final decision on the first tier review. In the council's final decision letter, it should tell applicants they have the right to ask us for an independent review.

Is there a time limit for asking for an independent review?

Applicants should ask us for an independent review within one month of the first tier review decision. In some circumstances we may be able to extend our time limit, so please contact our SWF team to discuss this.

How can applicants ask for an independent review?

Applicants can ask us for an independent review in writing or by phone. We can send a form in the post, or you can download it from our website at www.spsso.org.uk/scottishwelfarefund or use our online application form.

You can phone us on 0800 014 7299 – calls to this number are free, even from mobiles.

Our decision-making process

When we receive a request for an independent review, here are the things we'll check for:

1 Is the application ready for us to consider?

We can only consider cases when:

- an application has been made to the council
- the council has made its decision, and
- the council has completed a first tier review.

2 Has the application been made within the time limit?

Applications for an independent review should be made within one month of the applicant receiving the council's first tier review decision.

In some circumstances we may be able to conduct our review after

this time, but you should contact us to discuss this.

3 Has consent been given?

If an applicant would like someone to help them with their application for an independent review, we'll need to know they are happy for us to speak to their nominated person. We may share information about the case with the person who is contacting us, so we'll need the applicant's consent. This means we may need to contact the applicant directly, depending on the circumstances.

4 Grounds for an independent review

We'll ask the applicant why they are unhappy with the council's decision. This will help us take forward their application for review. We can conduct an independent review even if the applicant has not told us why they think the council's decision was wrong, but it helps us to know what they are unhappy about.



How we'll make our decision

We'll consider whether the council should have made a different decision. We have legal powers that allow us to do this.

We can check a number of things, including whether the council made a fair and reasonable decision. We may look at whether the council:

- followed Scottish Government guidance, regulations and any relevant council policies
- considered information that was accurate, relevant and complete
- made appropriate enquiries to get that evidence
- made its decision fairly, based on relevant evidence and the applicant's individual circumstances, and
- treated the applicant with dignity and respect in making its decision.

Getting information to help us make our decision

We'll request all the paperwork from the council about the application. We'll want to see that the applicant has applied for a grant and that the council has carried out a first tier review. We'll ask the council to send us everything so we know what information it had available.

We'll only seek to establish things we need to make our decision. However, sometimes we'll need more information than the council sends. We may want to arrange an interview or visit but, if we do, we'll contact the applicant to let them know. Also, if we want to check something with a third party (i.e., not the council) we'll usually discuss this with the applicant first. If the applicant tells us not to contact the third party, we'll make our decision on the information we have.

In some circumstances we may decide to hold an oral hearing, which would be with the applicant and the council. This would happen if we needed more information and it would be the fair thing to do. You can ask us for more information about this.

If you have any questions about this, please contact us.



What can we decide?

We can decide:

- to change part or all of the council's decision
- to tell the council to make a new decision, or
- not to change the council's decision in any way.

We may also make suggestions to the council about how it can improve.

We won't reduce or take away any award the council has given.

If we decide that the council should give an award, the council will contact the applicant to arrange this.

How long will the process take?

After the applicant asks for an independent review, we'll start work straight away.

We'll ask the applicant and the council for the information we need. Getting this information can take time. This means we may need several days to give our decision on a review of a Crisis Grant and several weeks to give our decision on a review of a Community Care Grant. We'll aim to give our decision within the following time limits:

- For Crisis Grants, one working day from when we get all the information we need to make a decision.
- For Community Care Grants, 21 working days from when we get all the information we need to make a decision.

If we cannot keep to these times, we'll explain why.

Guiding an applicant through the review process

At each stage, the council should give applicants clear information about what to do next if they are unhappy. They should also be given phone numbers for people to contact at different stages. We recommend you call the decision-makers to discuss the decision before thinking about going to the next stage of the process.

Understanding the decision and the information used to make it will help you when advising applicants whether or not to go to the next stage and what information or evidence they will need to help them make a successful request for review.

Quick guide to common situations

The applicant thinks the council's decision is wrong

The applicant should first ask the council to reconsider its decision (a first tier review). If the applicant disagrees with the final decision, they can ask us for an independent review.

The applicant was told they were too late to ask the council for a first tier review

We may be able to help, depending on the circumstances. You should speak to our SWF team.

The applicant has new information they think the council should have looked at when making its decision

If the information relates to circumstances the council should have been aware of at the time, we may take it into account. However, if the information is entirely new, a new application to the council for a grant may be needed.

The applicant has been told the fund has run out of money – what can the SPSO do?

The SWF is a limited fund. We cannot make an award in an applicant's favour if they applied for a grant when the fund was empty.

We base our decision on the state of the fund when they first applied to the council. If they applied when money was available but the fund is empty when they ask us to review, we'd be able to award in the applicant's favour if that should have been the decision at the time.

The applicant is unhappy about part of the council's decision but worries that the SPSO could take away part of the council's award

We won't reduce or take away any award the council has given. This is in line with general SWF principles.

Will the applicant need to speak to the SPSO's team in person?

In most cases we'll be able to complete our independent review using information from the applicant and the council. We can take applications over the phone, but also in writing or online. Sometimes we'll need to check information. This will usually be by phone or in writing but we may also ask to meet the applicant if necessary. Sometimes we may need to have an oral hearing. This would be with the applicant (and any representative they have) and the council. You can ask us for more information about this.

Making independent reviews public

We may publish information about our reviews. This is to show people what we've found and what we've asked councils to do. We'll remove information that could identify anyone.

The applicant thinks the decision is OK but feels they were treated badly by the council

If an applicant is unhappy with the service the council gave them, they should normally complain to the council using its complaints procedure. An applicant can complain even if they do not want to review the council's decision. This may be, for example, because they are unhappy with how the council treated them or with a delay. Once an applicant has received the council's response to their complaint, they can then complain to the SPSO.

What if the applicant is still unhappy after the SPSO's independent review?

If they are unhappy with our decision, they can ask us to reconsider it. We'll ask them to tell us why they disagree with the decision. We won't reconsider our decision simply because they are disappointed with it.

We publish a leaflet about reconsidering our decisions. It's on our website or you can ask us for a copy.

Your information

We are committed to protecting your privacy. We use information given to us about you and your application [or review] for its intended purpose and in line with the Data Protection Act 2018, the SPSO Act 2002 and the Welfare Funds (Scotland) Act 2015. For more information about how we handle your privacy and protect your information see our website www.spsso.org.uk/privacy-notice-and-disclaimer or ask us for our leaflet.

Contacting the SPSO

Our SWF team are happy to help.

You can contact us:



Freephone: **0800 014 7299** – calls are free to this number, even from mobiles



Freepost SPSO

(this is all you need to write on the envelope, and you don't need to use a stamp)



SPSO

Bridgeside House
99 McDonald Road
Edinburgh EH7 4NS

Opening hours:

Monday, Wednesday, Thursday, Friday 9am–5pm, Tuesday 10am–5pm



Website www.spsso.org.uk/scottishwelfarefund



Please contact us if you would like this leaflet in another language or format (such as large print, audio, BSL or Braille).