

## EQUALITY, POVERTY AND SOCIAL SECURITY

# Social Security Experience Panels: Enhanced Administration Powers – re- determinations and appeals, fraud and special measures for COVID-19

## Background

The Scottish Government is becoming responsible for some of the benefits currently delivered by the Department for Work and Pensions (DWP). As part of work to prepare for this change, the Scottish Government set up the Social Security Experience Panels.

**Department  
For Work  
and  
Pensions**



**Scottish  
Government**



**2,400+**

**Experience Panel  
members**

Over 2,400 people from across Scotland joined the Experience Panels when they started in 2017. They all have recent experience of the benefits that are coming to Scotland.

The Scottish Government is working with Experience Panels members to create Scotland's new social security system.

## About the research

The research explored Experience Panels members' views on:

- The right to withdraw a re-determination
- Making a new determination after an appeal is lodged
- Understanding fraud and alternatives to prosecution for low-value fraud
- Views on measures introduced during COVID-19 for late applications, re-determinations and appeals
- Reasons for late applications

The research involved:



**5 focus groups and 35 individual interviews**



**340 survey responses with Client Panels Members**

This research took place between:



**2022**



**2023**

## The right to withdraw a re-determination

Research participants were asked if a client should be able to withdraw a re-determination request before Social Security Scotland has made a re-determination decision. Mixed views were highlighted by participants:



Most participants highlighted that clients may want the option to withdraw a re-determination request. This was because they might find the process stressful and/or intimidating.



Some participants were concerned that people may withdraw a request if placed under pressure by DWP or Social Security Scotland, citing past experiences of DWP staff pressuring clients to do so.



A few participants noted that additional support and advice should be provided to fully explain what a withdrawal entails.

## Making a new determination after an appeal is lodged

Participants were asked their views on if a client's appeal process should be stopped if it is discovered that a mistake has been made by Social Security Scotland and a new determination can be offered, removing the need for an appeal to continue.



Most participants agreed that a new award decision should only be offered if it would give the client everything that they could get from the tribunal.



Many participants stated that the choice to appeal should remain after a client receives information about their new award.

## Positive impacts of the proposal



Save time and money for the clients, the government, tribunals and advocacy organisations.



Avoid the high levels of stress, worry and anxiety for clients that often accompany an appeal.



Some also stated that being informed a mistake had been made by Social Security Scotland would improve their opinion of the benefits system and encourage positive feelings of trust toward it.

## Comprehensive information, clear communication and guidance



Many participants highlighted that the client should be provided with comprehensive and clear information about the new award, appeals process and future choices they have.



Some felt that having more information would improve the transparency of the decision-making process.

## The new determination and giving consent

Many participants agreed and felt that:



- Consent was an appropriate legal element of the process.
- Consent should be required if the new award was time- limited.

- Consent should be a requirement as clients may want to continue with their appeal regardless.
- It should be possible to give consent through a variety of communication channels for example recorded consent.

A few participants disagreed and felt that:



It would be an unnecessary step so long as the highest possible award was being given, and the reasons and process going forward were clearly explained.

### **The right to challenge the new determination**



Most participants stated that the choice to challenge a decision made by Social Security Scotland should be the right of the client. A few participants highlighted that they felt providing the choice to challenge a new determination was a legal obligation for Social Security Scotland.

## **Alternatives to prosecution for low-value fraud**

### **Understanding fraud**



Most panel members described fraud as gaining something by deception. Most panel members emphasised that they felt fraud had to be a deliberate act.



Quote from panel member:

“People who are trying to get money that they are not entitled to is fraud, but it’s the intention to deceive.”  
(Interview participant)

Panel members were asked for their views on the following definition of fraud used by Social Security Scotland:

- Obtaining assistance by deceit.
- Failing to notify a change of circumstances.
- Causing a failure to notify a change of circumstances.



Some panel members felt that the definition offered by Social Security Scotland was clear and aligned with their understanding of fraud.



Other responses illustrated that participants perceived a grey area between what counts or would be recognised as a “genuine error”, and what Social Security Scotland considered to be intentional fraud.



This was particularly the case around “failing to notify of a change in circumstances.” Some participants were unclear what would constitute a change in circumstances, especially for those with fluctuating conditions.

## **Barriers to notifying of a change in circumstances**

Participants were asked what barriers they thought existed which could prevent someone from notifying of a change in circumstances. Suggestions included:



The complexity of forms and the benefits system in general.



A fear of the consequences to notifying of a change in circumstances, where it could lead to a drop in award level or a total loss of support.

## Ways to reduce these barriers

Panel members made suggestions as to how Social Security Scotland could reduce barriers to notifying of a change of circumstances. These included:



Providing multiple means of contacting Social Security Scotland.



Provide support (including advocates) to those who need it. This would make sure that they understand what is required of them, and would help people if they feel worried or stressed about the outcomes.



Quote from panel member:

“There’s people who are embarrassed or ashamed that they can’t understand these letters. I think that would have to be taken into account” (Interview participant)



Ensure that there is clear messaging and consistent deadlines applied to requirements around notifying of a change in circumstances.

The most common reasons suggested by participants as a reasonable excuse for not notifying of a change in circumstances were the impact of significant life events or crises, such as:

- bereavement
- breakdown of relationships
- traumatic events
- medical reasons including long-term illness and forgetfulness or confusion caused by a condition

## Alternatives to prosecution

Panel members were asked their opinions on whether or not Social Security Scotland should have an alternative measure to prosecution available for cases where only small amounts of money were involved.

Most participants agreed that there should be an alternative available, although with variations in responses. Suggestions included:



- Unpaid work, such as community service or within a voluntary organisation. Participants suggested this may be more suitable where a monetary fine would be inappropriate (for example, where the person concerned was already experiencing financial hardship).



- A small fine, or fines that operate on a sliding scale dependent on the level of fraud involved.
- Withdrawal of benefits.
- Providing the opportunity for the money to be paid back, with no further action taken.



- Educational courses, similar to those used for some driving offences.



Not all participants agreed that Social Security Scotland should have an alternative to prosecution available. Most participants agreed that where a clear case of intentional fraud had been identified this should lead to prosecution.



## Special measures for late re-determinations, appeals and applications

### Views on measures introduced during COVID-19 for late re-determinations and appeals



Special measures were implemented during the pandemic which allowed clients to submit an application, or a re-determination or appeal request beyond one year of the determination or re-determination if the reason for the lateness was COVID-19.

Participants were asked if they agreed that it is the right time to stop these measures. Mixed views were provided;



Many participants agreed that it was the right time to stop these COVID-19 measures, as they felt that there was no longer as high a risk from the pandemic, or that the pandemic was effectively over.



Some participants also noted that the public are now better protected through vaccinations.



Some participants disagreed that the measures should now be stopped, citing the continuing health risks of the virus.

### Special measures for late applications

Participants were asked their views on whether the ability to apply late with a 'good reason' should be extended to reasons other than COVID-19.

Most participants agreed with this proposal:



Some participants suggested a client or a member of their family being ill (regardless of the nature of the illness) should be a good reason for a late application, including for mental health reasons.



Other participants suggested that gathering supporting information, receiving advice and support, or coping with unexpected life events could also be good reasons for a late application.

## Reasons for late applications: follow-up survey

A follow-up survey was carried out with Client Panels members to explore their views on reasons for late applications.

The survey asked respondents whether they thought late applications should ever be accepted by Social Security Scotland for a range of benefits:

**48%** said 'yes'

**28%** said 'maybe'

People provided a range of reasons for their views. Some of the themes for these are outlined below:



The majority of survey respondents (84 per cent) felt that an applicant being seriously ill to the extent where their normal life and ability to carry out tasks is considerably impacted was a good reason for allowing late benefit applications.



65 per cent of respondents noted that a close family member of an applicant being seriously ill was a good reason for late applications.



Most survey respondents (82 per cent) said that an applicant having to wait for supporting information to be supplied by someone else to aid their application constituted a good reason for Social Security Scotland accepting late applications.

## Reasons in favour of allowing late applications



Many respondents felt that to live by its values of dignity, fairness and respect, Social Security Scotland should accept benefit applications that are late.



Others suggested that there should not be any deadlines for applications so that clients can access support whenever they need.

## Reasons against or mixed views about allowing late applications

Respondents' views included that the deadlines were already long enough, applications are easy to submit, and there is a ready availability of support.

## Timeframes for lateness of applications



Respondents were asked to choose a specific timeframe for how long they thought benefit applications could be submitted after the benefit deadlines listed:

- **33%** chose 1-3 months
- **26%** chose 1 month
- **17%** chose 4-6 months

## Next Steps



The Scottish Government will continue to work with Experience Panels in the design and development of Scotland's social security system. The findings of this research will help to inform the Scottish Government's social security policies as they are refined and developed, in line with the Scottish Social Security Principles.



We also commissioned an independent research company to conduct the analysis of responses to the [Scotland's social security system: enhanced administration and compensation recovery consultation](#), and we will publish the analysis report on the Scottish Government website. We will also publish the consultation responses, where permission has been given to do this, on Citizen Space.



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