**DISCRETIONARY SELF-ISOLATION SUPPORT GRANT**

**GUIDANCE – 27 OCTOBER 2020**

1. **INTRODUCTION**
	1. Scottish Government is providing financial assistance for people on low-income asked to self-isolate following contact through Test & Protect.
	2. The new Self-Isolation Support Grant (SISG) will be administered by Local Authorities on behalf of the Scottish Government using existing statutory provisions in ***The Welfare Funds (Scotland) Regulations 2016.*** In situations where the claimant has No Recourse to Public Funds an equivalent discretionary payment will be administered using statutory provisions in the Public Health (Scotland) Act 2008’.
2. **NO RECOURSE TO PUBLIC FUNDS**
	1. Public Funds as defined for immigration purposes are set out in Section 115 of the Immigration and Asylum Act 1999 and paragraph 6 of the Immigration Rules. The Scottish Welfare Fund Guidance (SWFG) section 6.7 states that an individual with No Recourse to Public Funds (NRPF) has no entitlement to most mainstream social security benefits, LA housing or homelessness assistance.
	2. The new SISG is not a public fund for immigration purposes and therefore can be made available to people with NRPF who satisfy other qualifying criteria. However, The Scottish Welfare Fund (SWF) is specifically listed in the immigration rules. This means that making a grant to a person with NRPF using SWF legislation can affect their legal status and no award should be made on that basis.
	3. To address this issue, a discretionary provision has been put in place allowing LAs to award the SISG using section 4 of the Public Health (Scotland) Act 2008.
	4. Under this legislation each LA is to continue to make provision, or secure that provision is made, for the purpose of protecting public health in its area. This legislation places a duty on NHS Boards and LA to co-operate in carrying out their duties under the Act.
	5. That includes carrying out necessary steps by the Heath Boards to identify a public health need – for example that an individual or family requires to be quarantined  and to work with a LA to establish how that need will be met.
	6. As Covid-19 was designated as a notifiable disease for purposes of the Public Health (Scotland) Act 2008 in February 2020 the payment of the SISG would be considered as meeting public heath need.
3. **RELEVANT LEGISLATION**
	1. When administering the grant, LAs will want to have regard to Section 115(9) of the Immigration and Asylum Act 1999 which defines individuals with NRPF for the purpose of delivery of the SISG as:

*A “person subject to immigration control” means a person who is not a national of an EEA State and who—*

*(a) requires leave to enter or remain in the United Kingdom but does not have it;*

*(b) has leave to enter or remain in the United Kingdom which is subject to a condition that he does not have recourse to public funds;*

*(c) has leave to enter or remain in the United Kingdom given as a result of a maintenance undertaking; or*

*(d) has leave to enter or remain in the United Kingdom only as a result of paragraph 17 of Schedule 4.*

* 1. People with No Recourse to Public Funds who are eligible for the grant include the spouse of a settled person; Tier 4 students and their dependents; someone with Leave to remain under family or private life rules.
	2. Some EEA nationals may also be excluded from accessing income based benefits because of their immigration status although they are not ‘subject to immigration control’ (i.e. if they are not exercising Treaty Rights). They are not explicitly excluded from receiving a SWF allocation and can be considered for the purpose of the SISG to have recourse to public funds, however assessments of their eligibility for the benefit will be similar to those undertaken for people with NRPF (see below). How the grant is administered to EEA nationals is therefore at the discretion of LAs, but it is advised that in situations where an EEA national claimant does not have Settled Status the grant is issued using the Public Health legislation.
1. **ESTABLISHING ENTITLEMENT**
	1. The onus is on LAs to satisfy themselves that they are acting within their powers under section 4 of  The Public Health (Scotland) Act 2008 when making determination whether the discretionary SISG should be issued to an individual with NRPF.
	2. As part of the initial eligibility checks, each LA will need to check whether or not the claimant’s immigration document contains reference to ‘no public funds’ as a condition of leave to remain.
	3. In cases where there has been some degree of uncertainty regarding an individual’s immigration status and entitlements to public funds, the LA should issue the grant based on the discretionary SISG rather than use the general scheme. This will avoid incorrectly awarding someone with NRPF a grant from the SWF, which could later impact their immigration status and subsequent applications to HO.
	4. The LA will be able to decide whether processing of the applications from individuals with NRPF should be conducted by existing SWF structures or alternative means. Where SWF structures are used, processing officers should take into account the variation in evidence gathering and assessments necessary in NRPF cases.
	5. The eligibility criteria should remain the same as the general SISG as detailed in SWFG section 11.13 with the exception of requiring entitlement to a qualifying benefit, i.e. the individual:
* has been required by the Test and Protect Service to self-isolate as a result of COVID-19, either because they have tested positive for coronavirus or have recently been in close contact with someone who has tested positive;
* are employed or self-employed;
* are unable to work from home and will lose income as a result; and
* are defined as low income or would be in receipt of low income benefits if not eligible for assistance via public funds.
	1. The LA should bear in mind when assessing a claimant’s entitlements that they will not be in receipt of mainstream benefits. In these circumstances, LAs should use low income indicators as outlined in the SWFG sections 7.14-7.19.
	2. The amount of the award should be £500 in line with the general SISG , however the LA must be aware that people with NRPF may still be facing financial insecurity.
	3. If LAs are concerned that the amount will not fully meet needs because of the wider exclusion to benefits, they may want to consider any other discretionary support that can be provided, e.g
* by the council under public health duties,
* referral to third sector organisations that administer crisis grants, and
* in case of families with children and vulnerable adults, a social work assessment for eligibility for support
1. **CHANGE OF STATUS**
	1. In some cases, a person with insecure immigration status and NRPF may be eligible to apply for their NRPF condition to be lifted, for example if they are at risk of destitution or to otherwise regularise their immigration status.
	2. EEA Nationals who are not entitled to benefits because they’re not exercising treaty rights or habitually resistant might also be eligible to apply for EU Settlement Scheme.
	3. In these circumstances, LAs are advised to refer claimants to specialist immigration advice and advocacy services.
2. **MANAGEMENT INFORMATION**
	1. Local authorities are required to record the total number of Self-Isolation Support Grants applications, and awards and the total expenditure on such awards on a monthly basis. Local Authorities should follow the same process for grants awarded to applicants with NRPF under the Public Health (Scotland) Act 2008.
	2. An additional spreadsheet for this purpose will be provided by Scottish Government to local authorities. The recording of application reference numbers of all applications will allow the statistics for these types of applications to be separated from the main quarterly SWF statistics in the official Scottish Government statistics publication. The additional spreadsheet should be completed and submitted at the same time as the SWF Management return. Self-Isolation Support Grants for those with NRPF should not be included as part of the statistics for ordinary Crisis Grants.
3. **FURTHER INFORMATION AND ADVICE**
	1. National guidance on the advice for LAs in discharging their duties towards people with NRPF and insecure immigration status and services that can be provided is available at <http://www.migrationscotland.org.uk/migrants-rights-entitlements/foreword>.
	2. The Covid-19 framework for supporting people with NRPF is available at <http://www.migrationscotland.org.uk/migrants-rights-and-entitlements-0>.