



**One Parent  
Families Scotland**  
*changing lives, challenging poverty*



**Scottish Government Consultation on the Investigation of Offences  
regulations and Code of Practice for Investigations  
October 2018**

**One Parent Families Scotland Submission**

October 2018

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## One Parent Families Scotland

OPFS is Scotland's national single parent organisation. We provide expert information, advice & family support, along with training activities, employability programmes & flexible childcare, tailored to the needs of single parent families.

OPFS model of transformational change has co-production at its centre through the active involvement of single parents as volunteers, peer mentors and as members of the board.

Our approach enables single parents, the majority of whom are women, to build their self-esteem, confidence and skills, increasing parent's access to employment, training and education. OPFS programmes raise participants' aspirations and expectations - giving single parents the confidence and skills to change their lives whilst offering the support to challenge the structural barriers that prevent them from achieving their potential.

## Single Parent Families

One quarter of Scottish families are single parent households. The Poverty and Inequality Commission has highlighted that 37% of all children in Scotland living in poverty live in a single parent family<sup>1</sup> and 94% of these single parents are women.

Furthermore, the most current government statistics show astonishingly that **49% of children in single parent families now live below the poverty line.**<sup>2</sup> A recent EHRC<sup>3</sup> report highlights that by 2021 single parents and their children will lose a fifth of their income due to welfare reform - an average of £5,250 a year. The **predicted increase in the child poverty rate (after housing costs) for children in single parent households to over 62%** will have a devastating impact on the lives and future prospects of so many children.

### One Parent Families Scotland

2 York Place, Edinburgh EH1 3EP

Tel: 0131 556 3899

[www.opfs.org.uk](http://www.opfs.org.uk)

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<sup>1</sup> <https://povertyinequality.scot/wp-content/uploads/2018/02/Child-Poverty-Delivery-Plan-advice-Final-Version-23-February-2018.pdf>

<sup>2</sup> <https://www.gov.uk/government/statistics/households-below-average-income-199495-to-201617>

<sup>3</sup> <https://www.equalityhumanrights.com/sites/default/files/cumulative-impact-assessment-report.pdf> p153

## **Consultation on the Investigation of Offences regulations and Code of Practice for Investigations**

### **Powers to Investigate and Safeguards**

**Q1a. Do you agree with our approach to requesting information in regulation 4 of the Investigation of Offences regulations, as shown in Box 1 and outlined in paragraphs 26 to 30? No**

**Q1b. If No, please explain why.**

OPFS is uneasy about the approach described in regulation 4 covering the expansion of investigatory powers to require organisations and individuals to comply with requests for information in relation to possible social security related offences/fraud.

The draft regulations would allow social security fraud investigators to require organisations to provide any data they have, including electronic files, and would give them the authority to search premises, as well as question anyone in the premises.

We believe that this power to compel organisations such as OPFS to disclose information could have unintended consequences which may put in jeopardy our impartiality and confidentiality when delivering services to parents. OPFS provides a holistic service to single parents which means benefits advice is integrated into family support, employability and money advice. We would be very concerned about having to tell parents at initial contact that their personal information may need to be passed on if there was to be a fraud investigation at any point in the future. It takes Single Parents, particularly those affected by domestic or financial abuse, a while to build up confidence so we are concerned that any doubts about OPFS impartiality may affect parents engaging with OPFS.

OPFS supports the view that the regulations should be amended to prevent this power being inappropriately used against legitimate organisations. An extensive discretion is inconsistent with a rights-based approach, as it is not clear who might be contacted or how these powers could be used.

**Q2a. Do you agree with our approach to obtaining electronic information under regulation 5 shown in Box 2 and outlined in paragraph 31? No**

**Q2b. If No, please explain why.**

OPFS case files are now often stored online. If the Scottish Government is not intending to use new powers to compel third sector advice agencies to provide confidential information, then this should be clearly stated on the face of the regulations. For the reasons detailed above, OPFS feels it would be unsuitable for them to be included within the remit of these regulations.

**Q3a. Do you agree with our approach to entry and search of premises for the purposes of a fraud investigation under regulation 6, shown in Box 3 and outlined in paragraphs 32 to 34? Yes & No.**

**Q3b. If No, please explain why.**

We welcome that homes are not included as the impact on children of such visits can cause upset and trauma. However regulations bring a wider array of organisations within the scope of the proposed powers than are covered by the equivalent provisions under reserved powers. OPFS considers this would be misplaced.

**Q4a. Do you agree with our proposal for new offences relating to delay or obstruction of an investigation, as outlined in paragraphs 35 to 36 and in regulation 7 shown in Box 4?**

**Q4b. If No, please explain why.**

Regulation 7 brings more organisations within the scope of these new offences. We are unsure what is meant in the regulation by ‘deliberate’ – how it will be defined and how ‘reasonable excuse’ will be defined. What the appeal process will be also seems unclear. We are unsure as to what the evidence base is to justify the need to broaden these powers and feel this is incompatible with a rights-based model.

**Q5. Do you have any other comments about Chapter 1 of the Code of Practice for Investigations?**

OPFS is concerned that the suggestion to give powers of covert surveillance (Paragraphs 37 – 39) to social security fraud investigators may not be balanced, nor in keeping with the principles of dignity and respect and a human rights-based approach.

OPFS wishes to highlight issues around ‘cohabitation’ and benefit entitlement within the present UK benefit system context. We are concerned that previous experiences of single parents around ‘fraud’ and cohabitation have shown that parents can be brought in to JCP repeatedly on flimsy information given by ex-partners which in practice enables a continuation of financial abuse. Multiple investigations by the DWP could be seen as another form of abuse and continuation of financial abuse. We hope this will be avoided in the devolved social security system and that there will be consideration of the impact of domestic and financial abuse which can result in the fear of retribution from an ex-partner.

## **Standards for Counter Fraud Officers**

**Q6a. Do you agree with our approach to authorising a person to use the information gathering powers set out in the Investigation of Offences regulations, as shown in regulation 3 in Box 5 and outlined in paragraph 38?**

No

**If No, please explain why?**

We feel counter-fraud officers should have specially tailored training. The training as defined in the consultation document does not give enough detail of what that would involve. We believe that it should show how permissions will be restricted to specially

trained officers and so the regulations should specify that only those staff who have undergone tailored, expert training would be granted investigatory powers.

**Q7a. Do you think the restrictions placed on authorised officers are correct as shown in regulation 3 in Box 5 and outlined in paragraphs 39 and 40?**

**Q7b. If No, what other restrictions do you feel are required?**

Regulation 3 appears to give wide-ranging powers but without clear limitations. OPFS is of the view that specially trained, authorised officers should only use the powers described in extreme circumstances. We feel to sit with the principles of dignity, respect and a person-centred approach then information gathering should be done where possible through communication with the person under investigation.

### **What to expect if you are being investigated**

**Q9a. Does Chapter 3 of the Code of Practice provide sufficient detail to explain how a person will be treated with fairness, dignity and respect during a fraud investigation?**

We would like to raise some further points which are detailed below

**Q9b. If No, please explain what else you think could be added to ensure this**

Even if under investigation a person's treatment should abide by the Scottish Social Security Principles. A claimant under suspicion should be assumed innocent until proven otherwise. "Confirmation Bias" should be avoided and the proceedings should be impartial - the technique of using leading questions and making assumptions from statements should be avoided.

In advance of any meeting people should be notified that there is clarity of evidence and that they will be asked questions. They should also be told they have a right to bring someone along to an interview and have the right to advice and advocacy.

Through our work with single parents we know that DWP investigations often feel like an 'interrogation'. Single Parents who may have been affected by domestic or financial abuse, the majority of whom are women, do not respond well to an accusatory approach which causes distress and is neither dignified or respectful.

### **Impact Assessments on the Code of Practice and Investigation of Offences Regulations**

**Q19a. Are you aware of any equality issues we have not identified in terms of introduction of the Investigation of Offences regulations and fraud investigations more generally?**

Yes. We would like to highlight the recognition of the impact of the gender dimension in the context of domestic and financial abuse on the investigations of offences and fraud.

## Conclusion

OPFS welcomes the commitment that the Scottish Social Security Agency will treat those who use the service with dignity, respect and fairness. The process of developing the suite of early years benefits - Best Start Grants in particular- has been the first trial of that assurance. OPFS has supported single parents, the majority of whom are women, to participate in the co-production of the development of these benefits including design of the delivery model and application process. We would argue that the same co-design principles should be committed to in the introduction of regulations dealing with allegations or suspicion of fraud. We must have safeguards to ensure genuine errors and mistakes will not be criminalised and that the regulations are in enough detail to be future-proofed to protect our most vulnerable citizens.

Careful consideration should be made to how the Scottish Social Security Agency works with DWP around fraud and the joint processes to be put in place. At the centre is the person, their family and their community and how they view Scotland's new Social Security System. It will be important to avoid a collapse in trust which would impact on the aim of having a new public service based on fairness, dignity and respect.

We know from consultations that single parents feel they face a high level of judgemental attitudes and stigma and often this has been felt when they have engaged with JCP. We look forward to working with the new agency to ensure single parent families will always be treated with dignity and respect and that the agency will meet the expectations of the Social Security Charter when published.

Anne Baldock, Financial Inclusion Programme Co-ordinator  
Marion Davis, Head of Policy & Strategy

### **One Parent Families Scotland**

2 York Place, Edinburgh EH1 3EP

Tel: 0131 556 3899

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