FEEDBACK ON DRAFT SOCIAL RELIEF OF DISTRESS GRANT MANUAL FOR THE DEPARTMENT OF SOCIAL DEVELOPMENT

20 March 2022

The opportunity to comment on the Procedure Manual for the implementation of the social relief of distress grant (hereafter SRD), outside of the State of Disaster regulations, is welcome. However, the draft provisions fail in certain places to reflect serious recognition of and response to the long-standing administrative issues and accessibility barrier of the SRD. Our comments are provided below, and organised according to the structure of the Procedure Manual.

Comments Per Section

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Section 1. Introduction

- Clarification is needed as to the meaning of “temporary” (in bold). Does this imply that (1) the social relief of distress for insufficient means (SRD-IMG) is a temporary government initiative; or (2) that it is provided to individual beneficiaries on a temporary basis, according to need?
    - We call for clarification of this, and if the first meaning applies (that it is a temporary government initiative) we respond to that in our comments pertaining to Sections 9, 10 and 11.

Section 3. Provisions

- Absence of any direct recognition that this policy should improve accessibility and reduce barriers. This should be added as a clear purpose of this policy.
- 3. a) v.) describes role of policy as ensuring accountability for handling of the SRD

- However, no section within the manual describes accountability mechanisms for abuse or misuse of these regulations by administering bodies or employees. This should be added as a clear purpose of this policy, and relevant mechanisms put in place to minimise abuse.

- We welcome the emphasis on efficiency in these provisions, but we suggest that it needs to be better balanced with principles of fairness and transparency. An overemphasis on efficiency and reducing "misrepresentation" compared to these other objectives appears punitive and suspicious towards grant recipients, and could result in unfair treatment or exclusions.
- There is also a large amount of repetition and redundancy within the list of provisions. We recommend collapsing provisions into each other where there is repetition, especially around efficiency and accountability.
- We suggest that the key and most important provision of the policy should be to ensure that eligible people receive their SRD entitlements through a timely and transparent process which is not onerous, punitive, or unreasonably intrusive. To ensure this is better reflected, we recommend that provision vi.) should become provision ii.); and that this provision should be amended to "Ensure that the payment of social relief of distress is carried out in a transparent, timely and fair manner."
- If provisions vii.) and viii.) are retained; we recommend removing the words "within [existing/the] resource constraints." This is either assumed and redundant; or as outlined in our submission on the regulations, suggests a cap on the number of beneficiaries which we argue would be arbitrary and unlawful.

Section 6. Application for Social Relief of Distress

- No provision in this section outlines a clear period within which applications must be approved or rejected. This detail and commitment must be provided.
- S.6.) d.) iii) indicates that the SRD-IMG will be means-tested at the Food Poverty Line.
    - Is this confirmation that the means-testing threshold has been raised from R595 to R624 (the current FPL), and is now pegged at the official FPL instead of a static amount?
    - While we welcome this adjustment, civil society partners have recommended that this grant should be means-tested at the Upper Bound Poverty Line in order to reach all in South Africa currently living in poverty.
        - We will continue to advocate for the expansion of the SRD grant to all people living below the UBPL, as well as the increase of the grant to the level of the Food Poverty Line in the short to medium term. In the long term, we propose that this grant be transitioned into a Universal Basic Income at the level of the Upper Bound Poverty Line. We note that this regulatory framework and procedure manual has the potential to form an administrative foundation for a UBI, and we welcome this step towards institutionalising comprehensive social protection.

- S. 6. g) states that it is the responsibility of the applicant to ensure that SASSA has their correct bank account numbers and that these must be registered in their name.
    - It is unclear in the Procedure Manual whether the only means of payment of an SRD-IMG is into a bank account registered in the recipient's name. If this is the case, it discriminates against those who, for many reasons, may not have their own bank account—and this is likely to include a disproportionate number of women. In these cases there must be provision made for the SRD-IMG to be paid in cash.
- S.6.) n) states that SRD-IMG applications can only be made via electronic channels, and that assistance may be provided to applicants to access/navigate these channels.
    - We are aware of high barriers to access to such systems including digital exclusion and digital illiteracy which are likely to disproportionately affect grant applicants. We welcome the fact that the procedure manual provides for assistance to be given to navigate or access electronic systems. Nevertheless we submit that an inability to access or navigate electronic systems must not disadvantage applicants or cause delays compared to applicants who can access and navigate electronic systems. This is especially of concern where applicants may need to travel to access assistance in order to apply for the grant. We recommend that a concrete commitment to equity and inclusion in the context of digital barriers should be reflected in the Procedure Manual.
    - Moreover, we welcome DSD and SASSA's acknowledgement, in presentations to civil society on 14 March, that "There is more integration between Organisations (internal & external to Government), but the dependency on accurate data and more seamless integration is now more evident than ever before", and that "SASSA wants to continue serving clients from application to payment from where ever they are with a single device in the palm of their hands."
        - However, we caution that transitioning to digital service provision carries with it a number of design and implementation risks which must be adequately evaluated and mitigated. Alongside the aforementioned issue of the digital divide and barriers to access; the design and governance of digital systems can have inequitable and exclusionary consequences especially where algorithms are used, which have the potential to reproduce biases. For instance, if algorithms are used to flag "irregularities" and place recipients on "referred status", the implications of their use of biased or inaccurate datasets must be given full consideration.
        - Additionally, the ability for SRD applicants, recipients and appellants to easily communicate with a human representative of SASSA must be preserved into the future, as well as the principle that each case is evaluated by a human representative.
    - Moreover, we note that the Procedure Manual does not acknowledge the cost of access to electronic systems (data costs, mobile phone costs, etc.) which could serve as a barrier to access to the SRD-IMG. While we note that the presentations on 14 March clarified that both WhatsApp and website application channels are zero-rated, we recommend that the assurance that electronic applications will not impose costs on the applicants should be reflected in the Procedure Manual.

Section 7. Qualifying Criteria for Social Relief of Distress

- Section 7.) c) vii) lists "Not receiving any other financial aid or support" as a criterion for eligibility for SRD-IMG
    - Despite "insufficient means" being expanded upon within section 6 to potentially include those with monthly income support under the FPL, this should be again clarified in this clause to avoid conflict with a zero-income threshold interpretation.
    - Further, financial aid for other purposes e.g. studying, which do not provide income support *per se*, should not be excluded.

Section 8. Special Conditions for Payment of the SRD-IMG

- Section 8. The monthly verification process for the SRD-IMG is onerous and intrusive, where a three monthly re-application requirement also applies, alongside the requirement to lodge an appeal for every month payment of the grant was declined. This verification process introduces a high risk of error and exclusion; especially given SASSA's acknowledgement in their presentation pertaining to the Appeals Process on 14 March, that "most database owners update their records every second month". A monthly verification process is administratively complicated and unnecessarily expensive and burdensome to SASSA. It undermines the realisation of the principle of efficiency laid out in the policy provisions in Section 3.
    - Where verification takes place (for instance for new applications or three-monthly re-applications), it is important that the verification process; (1) is not onerous towards the recipient/applicant, (2) is not unreasonably intrusive on the privacy of the recipient/applicant, (3) adheres to high standards of transparency, consent and security when accessing personal data, (4) does not result in delays to the applicant/recipient receiving entitlements which they expect and rely upon, (5) does not present a direct or indirect cost to the applicant/recipient (such as the cost of transport or data), (6) does not rely on databases which are known to be out of date, flawed and erroneous.
    - Presentations made on Monday 14 March in the public forum on the draft Procedure Manual with SASSA and DSD stated: "In instances of suspected irregularities the client is in a referred status for investigation and consideration"
        - Is there a set timeframe for this investigation and consideration to be carried out to ensure that if the "referred status" client is found to still be eligible to receive the grant, there is no delay to payment?
    - In light of the high risk of erroneous exclusions and delays, alongside the administrative burden on SASSA, we suggest that the monthly verification process should be removed from the Regulations and the Procedure Manual, and that applicants are re-verified only at the time of application for re-issue of the SRD.

Section 9. Application for re-issuing for SRD; Section 10. Cancellation and Reinstatement of SRD;

Section 11. Funding of SRD

- We are deeply concerned by language in Section 9. e), Section 10. b) i), and Section 11, providing for the grant to be suspended, limited or cancelled based on funding availability, or in other words arbitrary budget caps.
    - There should be no provision for arbitrarily capping the number of recipients of the grant, at a lower number than those who meet the eligibility criteria, nor for cancelling the grant for those who receive it and remain eligible to receive it. This is highly unusual in the context of social protection legislation and regulation in South Africa and globally. This provision would not in our view sustain a legal challenge. The Government has a constitutional obligation to continue to finance this grant for all those who need it, and can do so in the medium term through the revenue overrun and in the long term through sustainable progressive taxation measures.
    - We strongly recommend the removal from the Procedure Manual of all language anticipating its arbitrary capping or discontinuation—the whole of Section 11.

Section 13. Appeal Process

- S.13.d).i) states "Appeal applications will only be accepted through designated electronic channels. Assistance may be provided to applicants to access and/or navigate the electronic channels."
    - Does this refer to 3rd-party assistance for submitting appeals on behalf of the appellant, or that assistance may be provided by DSD/SASSA, and if so, what assistance is being made available?
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- S.13.d).ii), (2) sets out the information that the ITSAA is obligated to send to the appellant
    - This excludes a notification of receipt of application to appeal, which is necessary if an appellant is to know when the period of reconsideration begins
        - This is unless the date of submission by appellant equals the date of receipt by the ITSAA, and hence wording should reflect this.
- S.13.d).ii), (2), c), v) prohibits appellants from submitting new or additional evidence.
    - We appreciate that ITSAA has a specific mandate to consider appeals on the basis of initial applications. However, if evidence subsequently comes to light which shows that applications were rejected due to an error by SASSA or the use of incorrect or out of date databases, this evidence must be able to be submitted by the appellant to the Tribunal. This is critical in order to identify and mitigate against exclusion errors. We ask that another clear avenue for recourse in the case of uncovered exclusionary errors be made available.
- S.13.d).ii), (2), d) establishes the maximum time allowed to the ITSAA to assess an application for appeal at 60 days from receipt of application.

- This clause is silent on what occurs if a decision is not reached after 60 days.
    - Based on regulations, this failure constitutes an automatic approval of appeal, and this should be reflected in this manual.
- No provision within this section clarifies whether successful appeals entail payment from month of appeal being approved, or from month of initial application or rejection.
    - The Procedure Manual must stipulate that payment is due from the date of the initial application.

Section 15. Monthly Verification of Eligibility for the SRD-IMG

- Section 15 unnecessarily repeats Section 8 and they should be collapsed into each other.

Section 17. Recovery of Incorrectly Paid Benefits

- Section 17 holds potentially contradicting clauses:
    - S.17) a) states: "SASSA may recover all monies paid to any person in the event that such a person irregularly benefitted or was not entitled to benefit from the SRD."
    - S.17) c) states: "An applicant who received a social grant or SRD-IMG and SRD-D, the value of benefit given may not be recovered."
    - Contradictions must be clarified and removed. Additionally, where payment is found to be incorrect due to any error by SASSA, as opposed to fraudulent misrepresentation by an applicant, there should be no provision for the recovery of that payment, which carries a high risk of hardship to recipients even if they were found not to have been eligible to receive the SRD.

- Section 6.) h.) and Section 12.) c.): More clarity is needed in the Regulations and the Manual around the circumstances under which an SRD in the case of awaiting an approved social grant may be recovered from a subsequent grant. In particular;
    - Recovery of SRD-ASG must not have a direct impact on the recipient receiving their full level of monthly entitlements from their approved grant; i.e. the approved grant must be effectively back-paid to the date of initial application (the timeframe in which the recipient was receiving the SRD-ASG), in order to recover the SRD-ASG without impacting the recipients' ongoing income. This should be made clear in the regulations and Procedure Manual.
    - There should be no provision or scenario whereby a grant recipient is in debt to DSD, where debt is either recoverable through future grant payments, or out of the recipient's pocket. This will result in undue hardship.
    - If payments are recovered through deductions from ongoing grants (which we do not recommend), the level of deduction (as a percentage of income) and timeframe for repayment must be stipulated in the Procedure Manual.