

Consultation Response

Welfare Funds (Scotland) Bill

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Shelter
Scotland

Key Points

- Shelter Scotland is in favour of the Bill. It will achieve the provision of assistance for short term need and community care as long as it continues to be resourced financially at the current levels and inasmuch as it is underpinned by robust guidance. Families under exceptional pressure should be added as a category for eligibility.
- Local authority staff should be required to record all inquiries which do not progress to the point of application in order to protect against judgements on eligibility being made prematurely.
- Regular review of the fund should be built into the Bill to ensure that it remains effective and evolves in response to social changes and demands.
- The Bill needs to explicitly clarify that no repayment of rewards under the Welfare Funds will be required.
- The joint commissioning and outsourcing of the Funds by local authorities could be positive but should always taking into account existing local provision and contracts should only be given to suitable providers who can be held to account.
- We are content with the level of detail currently included in the Bill. However, there are some elements of the draft regulations that we would want to ensure were considered before they are finalised.

Welfare Reform Committee Consultation Questions

Shelter Scotland welcomes the opportunity to respond to the Welfare Reform Committee's consultation questions on the Welfare Funds (Scotland) Bill.

1. Are you in favour of the Bill and its provisions? Do you think the Bill fully achieves the Scottish Government's aim of providing assistance for short term need and community care?

Shelter Scotland is in favour of the Bill and believes that it will achieve the provision of assistance for short term need and community care. This will be successful as long as it continues to be resourced financially at the current levels and inasmuch as it is

underpinned by robust guidance. The fund provides an important means of helping vulnerable households when they are in crisis and enabling households to live independently. As such, the fund also serves as an important preventative investment, diverting costs from emergency and long term services such as residential care. Shelter Scotland supports the Child Poverty Action Group (CPAG) in calling for the inclusion of 'families under exceptional pressure' as a category for eligibility for community care grants, as was the case under the UK discretionary social fund. Many families are at risk because they are struggling to pay for basic household essentials to maintain their home.

2. The interim SWF scheme has already been running for two years. Do you feel that the Bill has suitably taken on the learning from this time?

Shelter Scotland supports CPAG's comments regarding learning from the past two years that should be reflected in the bill and accompanying regulations and guidance. In summary:

- Concerns that certain individuals have been discouraged from making an application through local authority staff making premature judgements on eligibility. This could be overcome by requiring authorities to record all inquiries which do not progress to the point of application.
- Concern about the requirement that applicant be in receipt of means tested benefit (see answer to question 8)
- Concern about the setting of concrete timeframes that do not allow for the required level of discretion to respond appropriately to the varied circumstances applicants face.

3. Is there anything else that you feel should be included in the Bill?

Shelter Scotland welcome the dedication of funds in 2015/16 as laid out in the Financial Memorandum. However, Shelter Scotland would like to see the funding for the Scottish Welfare Fund ring-fenced in the Bill to secure this vital lifeline in future years for households at the point of crisis and who need help to establish or maintain a home.

In response to the changing welfare landscape and evolving social needs, we would also like to see a commitment to monitoring and regular review of the implementation included in the Bill. This would ensure that inconsistencies and arising issues would be recorded through official Scottish Government Statistics and addressed through review.

Current guidance, the Explanatory Notes and accompanying Policy Memorandum for the Bill all make clear that the policy intention is for the fund to be given in the way of grants rather than as loans. In particular the Policy Memorandum (s.30) lays out the strong rationale for this. The Bill therefore needs to clarify that no repayment of rewards will be

required. We are concerned by the inclusion of the potential for Scottish Ministers to pass regulations that may change this status (s. 5.2.f) and call for its removal.

4. Will the Bill and its provisions have a particular impact on equalities groups?

We share the concern of other organisations that local authorities are not sufficiently recording the multiple vulnerabilities that many applicants present with. Individuals with complex needs are some of the most excluded in society and it is important that their circumstances are recorded and accounted for in the assessment and provision of the Welfare Fund. In many authorities this is a technical software issue that needs to be overcome.

Another IT issue in some authorities that is having an impact on a vulnerable group is the requirement to provide a National Insurance number before an application can proceed. This impacts particularly on migrant groups who may not yet have been allocated a NI number.

5. Do you agree with the proposal that local authorities have the option to outsource the provision of the fund to a third party or jointly administer the fund across local authority boundaries? What are the benefits or drawbacks to this approach?

Outsourcing and joint commissioning can both be positive ways to increase the scope and expertise of provision in an area and to deliver services in a more efficient way. In principle we support this option being available for local authorities, but with some caveats.

Firstly, the design of any outsourced or joint services should take into account existing local provision and work to maximise on existing local networks and knowledge. For example, organisations represented by Community Resources Network Scotland and small scale 'starter pack' charities that can respond quickly and flexibly to demand.

Secondly, regulations should set out criteria that the third party must satisfy in order to be used for the provision of the fund, to ensure that only suitable providers are used to provide this lifeline to often very vulnerable people.

Thirdly, there must be a way for the third party to be held accountable for the standards of their provision and an effective mechanism must be in place for recipients to be able to raise concerns about third parties as well as local authorities.

6. What are your views on the proposed internal local authority review process?

The proposed local authority review process is a necessary first point of call for any individuals that are not satisfied with the decision or how it has been made. This should enable quick responses to requests for reviews. This reflects the practice in many authorities for review of homeless decisions. The Bill should set out a duty for applicants to be informed, in a format that is accessible, of their right to request a review.

7. Do you agree that the SPSO is the appropriate body to conduct secondary reviews?

Although Shelter Scotland's initial preferred option for the secondary review process was to set up a local government based system, we are reassured by the Scottish Public Services Ombudsman briefing note. This addresses the need for the service to respond rapidly, sensitively and flexibly to requests for secondary review. The performance and capacity of the Ombudsman to meet the demands of this new function should be monitored and reviewed.

8. What are your views on the level of detail that will be contained within the regulations? Is there any aspect which you feel would benefit from being on the face of the Bill?

We are content with the level of detail currently included in the Bill. However, there are some elements of the draft regulations that we would want to ensure were considered before they are finalised.

Firstly, there appears to be a lack of clarity in the draft Regulations over the definition of 'qualifying individual'. The Bill at 2.2.b explicitly references 'homeless or otherwise living an unsettled way of life' whereas in the Regulations at 6.4 and 6.5 the homeless group is not mentioned explicitly. This could be read as the Regulations omitting homeless people as 'qualifying individuals'. For the avoidance of doubt we would advocate for this group to be explicitly referenced in the Regulations. In addition, we would want the regulations to include a clearer definition of 'homeless or otherwise living an unsettled way of life' as this phrasing could currently be variously and broadly interpreted.

Secondly, in light of some authorities currently requiring all applicants be in receipt of a means tested benefit, we share CPAG's concerns about the clarity of the wording in the Regulations at 5.2. We recommend, with CPAG, that the reference to means tested benefits should be removed from the regulations. Instead, the issue of income, essential costs and capital should be robustly addressed in accompanying guidance.

Thirdly, it should be clarified whether a "person stranded in the authority's area and the assistance is a crisis grant which will assist the person to return home" is intended to include migrants who wish to return to their home countries.