These documents relate to the Welfare Funds (Scotland) Bill (SP Bill 51) as introduced in the Scottish Parliament on 10 June 2014

WELFARE FUNDS (SCOTLAND) BILL

EXPLANATORY NOTES

(AND OTHER ACCOMPANYING DOCUMENTS)

CONTENTS

As required under Rule 9.3 of the Parliament’s Standing Orders, the following documents are published to accompany the Welfare Funds (Scotland) Bill introduced in the Scottish Parliament on 10 June 2014:

- Explanatory Notes;
- a Financial Memorandum;
- a Scottish Government Statement on legislative competence; and
- the Presiding Officer’s Statement on legislative competence.

A Policy Memorandum is printed separately as SP Bill 51–PM.
These documents relate to the Welfare Funds (Scotland) Bill (SP Bill 51) as introduced in the Scottish Parliament on 10 June 2014

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes have been prepared by the Scottish Government in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by the Parliament.

2. The Notes should be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill.

SUMMARY AND BACKGROUND

3. The Bill makes provision for the establishment of welfare funds which will be maintained by local authorities and will be established to reflect the amendment of Schedule 5 to the Scotland Act 1998 made by the Scotland Act 1998 (Modification of Schedule 5) (No.2) Order 2013: SI 2013/192. The Bill is comprised of eight sections. It confers duties on local authorities to maintain and administer welfare funds in particular fashions. It confers powers on the Scottish Ministers to make regulations, and publish guidance which will set out how welfare funds should be administered. It also requires the Scottish Public Services Ombudsman (SPSO) to carry out reviews in relation to local authority decisions on provision of assistance under welfare funds.

4. The detail of how welfare funds will be administered is not set out in the Bill. However, the intention is that the package of the Bill, associated regulations and guidance which the Scottish Ministers intend to make, will set out in legislation arrangements that have been in place on an interim basis since April 2013. Those interim arrangements are known as the Scottish Welfare Fund (SWF) and are based on a voluntary agreement between the Scottish Ministers and the Leaders of the Convention of Scottish Local Authorities (COSLA). The intention is that the legislative package will allow for these arrangements to continue, notwithstanding a change in how second tier reviews will be undertaken. A summary of the interim scheme is provided in paragraphs 5-10.

Summary of the interim Scottish Welfare Fund

5. The interim SWF aims to—

- provide a safety net in an emergency when there is an immediate threat to health and safety through the provision of a non-repayable grant which is known as a Crisis Grant (CG); and

- enable people to live independently, or to continue to live independently, preventing the need for institutional care, through the provision of a non-repayable grant which is known as a Community Care Grant (CCG). This includes providing assistance to families facing exceptional pressures. For example where there has been a breakdown in family relationships, perhaps involving domestic violence, which is resulting in a move.
6. CGs are awarded to meet expenses that have arisen as a result of an emergency or disaster in order to avoid serious damage or serious risk to the health or safety of the applicant or their family.

7. CCGs are awarded to—
   - help people establish themselves in the community following a period of care where circumstances indicate that there is a risk of the person not being able to live independently without this help;
   - help people remain in the community rather than going into care where circumstances indicate that there is a risk of the person not being able to live independently without this help;
   - help people set up home in the community, as part of a planned resettlement programme, following an unsettled way of life;
   - help families facing exceptional pressures, such as the breakdown of a relationship, or repair and replacement of items damaged by behavioural problems within the family; and
   - help people to care for a prisoner or young offender who is living with them on release on temporary licence.

8. The interim SWF is aimed at supporting people on low incomes. Some of the main users are—
   - disabled people
   - lone parents
   - unemployed people
   - older people
   - care leavers
   - homeless people
   - ex offenders
   - carers.

9. The interim SWF operates on a discretionary, budget-limited basis, with applications being prioritised according to need. Local authorities are expected to manage expenditure in such a way as to ensure effective budgetary management of funds over the financial year. They are able to supplement funding from the Scottish Ministers, but are not obliged to do so. The intention is for the funds to link to other local services and provide a better service to vulnerable members of the local community. The most common services that applicants are signposted or referred to are advocacy, welfare rights, housing and money or debt management.

10. The interim SWF was designed to take advantage of local delivery, while maintaining a national character. The Scottish Government has sought to standardise the decision making and notification process for the interim SWF by providing comprehensive guidance, a standard
These documents relate to the Welfare Funds (Scotland) Bill (SP Bill 51) as introduced in the Scottish Parliament on 10 June 2014

application form, a guide for decision makers and model documentation. In addition to this a national training programme and funding for a dedicated Development Officer, based in COSLA, in order to promote consistency and support implementation has been provided by the Scottish Government. However, local authorities have full discretion over local arrangements for delivery i.e. the arrangements for taking and processing applications and the arrangements for paying grants or fulfilling them by other means. This allows local authorities to align the SWF with other relevant services, make effective links with local organisations and to ensure that their delivery meets local needs, for example in terms of geography.

COMMENTARY ON INDIVIDUAL PROVISIONS

Section 1: Welfare funds

11. This section establishes the concept of a “welfare fund”. It requires each local authority to maintain a fund. The funds are to be made up of any grants paid into the fund by the Scottish Ministers, and any amounts paid into the fund by the local authority.

Section 2: Use of welfare funds: assistance for short term need and community care

12. This section sets out the circumstances in which a local authority can provide financial or other assistance to or in respect of individuals.

13. It repeats relevant text from the Scotland Act 1998 (Modification of Schedule 5) (No. 2) Order 2013: SI 2013/192 which set out an exception from the social security reservation in the Scotland Act 1998 so as to give the Scottish Parliament competence to legislate for welfare provision. Section 2 sets out the general scope of the funds.

14. Subsection (1) allows local authorities to use their welfare funds to provide occasional financial or other assistance to, or in respect of, individuals for the purposes of meeting, or helping to meet an immediate short term need arising out of an exceptional event, or exceptional circumstances. The short term need must also be one that would mean there would be a risk to the wellbeing of an individual if it were not met.

15. This section also allows local authorities to use their welfare funds to provide occasional financial or other assistance to, or in respect of, individuals to enable qualifying individuals to establish or maintain a settled home.

16. Subsection (2) provides that welfare funds can be used to provide assistance to qualifying individuals who have been or, without the assistance, might otherwise be in prison, hospital, a residential care establishment or other institution such as foster care, or be homeless or otherwise living an unsettled way of life.

17. Subsection (3) provides that a local authority may pay third parties to provide assistance to qualifying individuals by either providing goods or services. For example, a local authority may pay a contractor to provide furniture or carpets to fulfil a grant.
Section 3: Administration of welfare funds

18. This section provides that a local authority may make arrangements for another person to administer its welfare fund on its behalf. This means that local authorities can outsource the provision of their welfare fund, to the private or third sector or to another local authority. They would retain responsibility and accountability for the fund, but it would be delivered by a third party.

19. Subsection (2) allows for a number of local authorities to come together and outsource the provision of their welfare funds jointly, in accordance with any instructions agreed between the authorities.

20. Subsection (3) allows for local authorities to administer their welfare funds jointly. This subsection allows them to establish a joint committee which would administer their joint welfare funds.

Section 4: Review of decisions

21. Subsections (1) and (2) of this section allow regulations to be made about arrangements that local authorities are required to have in place to carry out reviews of decisions they make in relation to the provision of assistance. Where the applicant requests a review, the local authority can be required to arrange for the case to be looked at again, within the parameters that will be set out in regulations.

22. Subsection (3) sets out a right for an individual to apply for a further review, beyond that carried out by a local authority, by the SPSO. This is a new jurisdiction for the SPSO and is distinct from the SPSO’s current jurisdiction which involves considering whether there has been maladministration.

23. Subsection (4) gives the SPSO the power, where it considers that the decision made by the local authority is not the one that should have been made, to direct the local authority to make an award out of its welfare fund or to remit the case to the local authority so that it can reconsider its decision.

24. Subsection (5) specifies that regulations made under this section are subject to the negative procedure.

Section 5: Welfare funds: further provision

25. This section provides the Scottish Ministers with the power to make regulations to set out how welfare funds should operate, and what local authorities’ functions are in relation to the funds.

26. Subsection (2) sets out a number of particular matters about which the Scottish Ministers may make provision in regulations. Any regulations made under this section will in effect set out the detailed legislative framework for the operation of the welfare funds.
27. Regulations may in particular make provision about how an application to receive assistance is to be made; the procedure which local authorities are to follow in relation to applications; eligibility to receive assistance; other circumstances in which assistance may, or may not be provided; the type of assistance which may be provided; and circumstances in which payments or assistance may or may not be repaid or recovered. They may also make provision requiring local authorities to provide the Scottish Ministers with information for monitoring and reporting purposes; about arrangements which may be made relating to the administration of welfare funds under section 3; about arrangements for review of decisions by local authorities and requiring applicants to the funds to provide information for the purposes of a review by a local authority and about circumstances in which an application to receive assistance or an application for review by a local authority may be made by a person on behalf on an individual.

28. Subsection (3) provides that the regulations may make different provision for different purposes. They may also make incidental, supplementary, consequential, transitional, transitory or saving provision.

29. Subsection (4) provides that regulations under this section may not make provision about reviews by the SPSO. The SPSO is independent of the Scottish Ministers and will set out its own procedures for review.

30. Subsection (5) provides that regulations under this section are subject to the negative procedure.

Section 6: Guidance

31. This section provides that local authorities must have regard to any guidance issued by the Scottish Ministers in connection with the exercise of functions under the Bill.

32. Subsection (2) provides as to the guidance that the Scottish Ministers can issue. The guidance must apply in the same way to all local authorities, may be general or specific and can be varied or revoked, subject to consultation requirements contained in subsection (3).

33. Subsection (3) provides that the Scottish Ministers must consult such body representing local authorities as they think fit, and other persons as they consider appropriate before issuing, varying or revoking guidance.

34. Subsection (4) provides that the Scottish Ministers must publish guidance in such manner as they consider appropriate.

Section 7: Commencement

35. This section provides for commencement of the Bill. Sections 7 and 8 will come into force on the day after Royal Assent.

36. Subsection (2) provides that the other provisions of the Bill will come into force on such day as the Scottish Ministers may by order appoint.
37. Subsection (3) provides that a commencement order may include incidental, supplementary, consequential, transitional, transitory or saving provision.

Section 8: Short title

38. This section gives the short title of the Bill.
INTRODUCTION

1. This document relates to the Welfare Funds (Scotland) Bill (“the Bill”) introduced in the Scottish Parliament on 10 June 2014. It has been prepared by the Scottish Government, to satisfy Rule 9.3.2 of the Parliament’s Standing Orders. It does not form part of the Bill and has not been endorsed by the Parliament.

BACKGROUND

2. The Bill makes provision for the establishment of welfare funds which will be maintained by local authorities and will be established to reflect the amendment of Schedule 5 to the Scotland Act 1998 made by the Scotland Act 1998 (Modification of Schedule 5) (No.2) Order 2013: SI 2013/192 (the Order). The Order provided a new exception to the social security reservation, which is set out as Section F1 in Part 2 of Schedule 5 to the Scotland Act 1998. This meant that following the abolition by the Welfare Reform Act 2012 of community care grants and crisis loans for living expenses from the Social Fund operated by the Department for Work and Pensions (DWP), the legislative competence of the Scottish Parliament was widened so that it can legislate in relation to the provision of welfare assistance in case of a crisis or to help establish or maintain a settled home.

3. DWP transferred funding to the Scottish Government for financial years 2013/14 and 2014/15 in relation to welfare provision. This funding could have been used for any purpose. However, the Scottish Ministers decided to use it for local welfare provision through the Scottish Welfare Fund.

BILL PROVISIONS

4. The Bill is comprised of eight sections. It confers duties on local authorities to maintain and administer welfare funds in particular fashions. It confers powers on the Scottish Ministers to make regulations, and publish guidance which will set out how welfare funds should be administered. It requires the Scottish Public Services Ombudsman (SPSO) to carry out reviews in relation to local authority decisions on provision of assistance under welfare funds.

5. The detail of how welfare funds will be administered is not set out in the Bill. However, the intention is that the package of the Bill, associated regulations and guidance, which the Scottish Ministers intend to make, will set out in legislation arrangements that have been in place on an interim basis since April 2013.

6. Those interim arrangements are known as the Scottish Welfare Fund (SWF) and the intention is that the legislative package will allow for these arrangements to continue, notwithstanding a change in how second tier reviews will be undertaken. A summary of the interim scheme is provided in paragraphs 7 - 13.
SUMMARY OF THE INTERIM SWF SCHEME

7. The interim SWF aims to—
   • provide a safety net in an emergency when there is an immediate threat to health and safety, through the provision of a non-repayable grant which is known as a Crisis Grant (CG); and
   • enable people to live independently, or to continue to live independently, preventing the need for institutional care, through the provision of a non-repayable grant which is known as a Community Care Grant (CCG). This includes providing assistance to families facing exceptional pressures. For example where there has been a breakdown in family relationships, perhaps involving domestic violence, which is resulting in a move.

8. CGs are awarded to meet expenses that have arisen as a result of an emergency or disaster in order to avoid serious damage or serious risk to the health or safety of the applicant or their family.

9. CCGs are awarded to—
   • help people establish themselves in the community following a period of care where circumstances indicate that there is a risk of the person not being able to live independently without this help;
   • help people remain in the community rather than going into care where circumstances indicate that there is a risk of the person not being able to live independently without this help;
   • help people set up home in the community, as part of a planned resettlement programme, following an unsettled way of life;
   • help families facing exceptional pressures, such as the breakdown of a relationship, or repair and replacement of items damaged by behavioural problems within the family; and
   • help people to care for a prisoner or young offender on release on temporary licence.

10. The interim SWF is aimed at supporting people on low incomes. Some of the main users are—
    • disabled people
    • lone parents
    • unemployed people
    • older people
    • care leavers
    • homeless people
    • ex offenders
    • carers.
11. The interim SWF operates on a discretionary, budget-limited basis, with applications being prioritised according to need. Local authorities are expected to manage expenditure in such a way as to ensure effective budgetary management of funds over the financial year. They are able to supplement funding from the Scottish Ministers but are not obliged to do so.

12. The interim SWF links to other local services with the aim of providing relevant support to address underlying issues which have resulted in a crisis or the need for a CCG. The most common services that applicants are signposted or referred to are advocacy, welfare rights, housing and money or debt management.

13. The interim SWF was designed to take advantage of local delivery while maintaining a national character. The Scottish Government has sought to standardise the decision making and notification process for the interim SWF by providing comprehensive guidance, a standard application form, a guide for decision makers and model documentation. In addition to this a national training programme and funding for a dedicated Development Officer, based in COSLA, in order to promote consistency and support implementation has been provided by the Scottish Government. However, local authorities have full discretion over local arrangements for delivery i.e. the arrangements for taking and processing applications and the arrangements for paying grants or fulfilling them by other means. This allows local authorities to align the SWF with other relevant services, make effective links with local organisations and to ensure that their delivery meets local needs, for example in terms of geography.

OVERVIEW OF AREAS WHERE COST WILL BE INCURRED

14. The following paragraphs provide a summary of where any significant costs/financial pressures will arise as a result of the introduction of the Bill.

15. There are costs associated with a number of sections within the Bill. Initial start-up and administration costs have already been incurred by both the Scottish Government and local authorities in respect of interim arrangements that have been in place since April 2013. These include staff costs within the Scottish Government and local authorities, IT setup costs, staff training costs and publicity.

16. There will also be ongoing financial pressures on the Scottish Government to provide programme funding for local authorities to distribute through welfare funds, and to provide associated administration funding. The programme funding has been confirmed as continuing at £33 million per annum until the end of the current spending review period in 2015/16.

17. The administration funding for 2014/15 is £5 million. The administration budget for 2015/16 has not yet been decided, however, provision has been made for this within budget plans to maintain it at the same level.

18. Section 4 of the Bill provides for the SPSO to have powers to carry out reviews of local authority decisions relating to assistance under welfare funds. The new powers diverge from SPSO’s traditional role in dealing with maladministration and require a different approach. The Scottish Government has estimated set up costs and annual running costs for a separate unit that is envisaged within SPSO to deal with independent review requests from welfare funds.
applicants. Funding for the SPSO will be transferred from the Scottish Government to the Scottish Parliamentary Corporate Body (SPCB), which funds the SPSO, for 2014/15 and 2015/16, after which permanent arrangements will be put in place for funding.

19. The table below summarises the costs that have been identified as falling on the Scottish Government to the end of the current spending review period in 2015/16, and where this funding is being allocated in order to deliver the welfare funds. Further details on costs are available at paragraphs 28 - 52.

<table>
<thead>
<tr>
<th>Organisation funding allocation</th>
<th>Year</th>
<th>Programme Funding (£)</th>
<th>Administration Funding (£)</th>
<th>Second Tier Review Funding (£)</th>
<th>Implementation and LA support (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2013/14</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SG</td>
<td>340,000</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>LA</td>
<td>33,000,000</td>
<td>5,000,000</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SPCB /SPSO</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>340,000</td>
</tr>
<tr>
<td></td>
<td>2014/15</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SG</td>
<td>340,000</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>LA</td>
<td>33,000,000</td>
<td>5,000,000</td>
<td></td>
<td></td>
<td>60,000 – 100,000</td>
</tr>
<tr>
<td>SPCB /SPSO</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td>2015/16</td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SG</td>
<td>340,000</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>LA</td>
<td>33,000,000</td>
<td>TBC</td>
<td></td>
<td></td>
<td>250,000 - 400,000</td>
</tr>
<tr>
<td>SPCB /SPSO</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

COSTS ON THE SCOTTISH ADMINISTRATION

Funding transfer from the UK Government

20. The SWF replaces the discretionary Social Fund which was abolished by the UK Government under the Welfare Reform Act 2012. The table below shows DWP funding for the discretionary Social Fund in Scotland for a selection of years where data are available, prior to the transfer to the Scottish Government as mentioned previously in paragraph 3.

<table>
<thead>
<tr>
<th>Year</th>
<th>DWP Expenditure (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005/06</td>
<td>25,122,500</td>
</tr>
<tr>
<td>2009/10</td>
<td>30,181,900</td>
</tr>
<tr>
<td>2010/11</td>
<td>29,051,700</td>
</tr>
<tr>
<td>2011/12</td>
<td>27,667,200</td>
</tr>
</tbody>
</table>

Source – DWP Social Fund Localisation Data

21. The budget for the Social Fund was transferred to the devolved governments and local authorities in England for financial years 2013/14 and 2014/15. In the case of the Scottish Government, this transfer amounted to £23.8 million for programme funding. This reflected a

period of “managing back demand” (narrowing eligibility) for the discretionary Social Fund in recent years to below the level of 2005/06.

<table>
<thead>
<tr>
<th>Year</th>
<th>Transfer of funds from DWP</th>
<th>Additional funding provided by SG</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Programme Funding (£)</td>
<td>Administration Funding (£)</td>
<td>Programme Funding (£)</td>
</tr>
<tr>
<td>2013/14</td>
<td>23,795,000</td>
<td>5,000,000</td>
<td>9,200,000</td>
</tr>
<tr>
<td>2014/15</td>
<td>23,795,000</td>
<td>4,600,000</td>
<td>9,200,000</td>
</tr>
</tbody>
</table>

Source for DWP funding - [DWP social fund settlement funding allocation](http://www.dwp.gov.uk/docs/social-fund-settlement-funding-allocation.pdf)

22. The Scottish Ministers decided to use the full allocation from the UK Government to provide local welfare assistance. They decided to top up the funding for financial years 2013/14 and 2014/15. By providing an additional £9.2 million of funding for both of these years the total funding available for the welfare fund in each of these years is £33 million. The additional funding is in recognition of the de facto cuts in spend on the Social Fund in the years before transfer and the expectation of additional demand on the fund as a result of welfare reforms.

23. As the funds will be discretionary, the Bill does not create any entitlement. Under the interim SWF, local authorities manage the fund by varying priority levels through the year to avoid exhausting the fund. It is planned that this would continue under the permanent funds. It is anticipated that wide ranging changes in welfare benefits and relatively high retail prices and food costs will continue to create pressure on low income households in the immediate future. This is why funding continues at £33 million in 2014/15 and 2015/16, a level which was endorsed by the Welfare Reform Committee as part of its scrutiny of the 2014/15 budget.

24. Statistics on the interim SWF are [published quarterly](http://www.scotland.gov.uk/Topics/Statistics/Browse/Social-Welfare/swfSpend). Spend by local authorities between April and December of 2014 was £18 million and the full year spend is estimated to be in the region of £29 million.

25. The UK Government also transferred funding for administration costs of just over £5 million in 2013/14, falling to just over £4.6 million in 2014/15.

26. Further, the UK Government also proposed to transfer a one-off amount of just under £240,000 for set-up costs in 2012/13. The Scottish Government pressed DWP for further funding for set-up costs. The final transfer from the UK Government for set-up costs was in the region of £2 million. All of this funding was passed on to local authorities to enable the interim scheme to be established in April 2013.

27. The total funding transferred to local authorities for local welfare provision thus far is therefore £2 million in 2012/13 for set-up costs, and £38 million (for programme and administration costs) in 2013/14 and 2014/15, giving an overall total of £78 million.

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Funding commitments

28. The Scottish Ministers have committed, in the Budget for 2014/15, to maintaining programme funding for welfare funds at £33 million for the current spending review period. This means that £33 million will be made available in programme funding for local welfare provision in 2015/16 from the Scottish Government block grant. The terms of the funding for 2015/16 are yet to be agreed between the Scottish Ministers and COSLA. The Bill allows the funding to be ring-fenced.

29. The 2014/15 budget also included £4.6 million for administration funding. Following discussions with COSLA, the Scottish Ministers have agreed to increase administration funding for 2014/15 to £5 million. This is reflected in the Local Government Finance (Scotland) Order 2014 - Settlement for 2014-15 and Redeterminations for 2013-14⁴.

30. All funding from 2015/16 will be part of the Scottish Government block grant from the UK Government. It will be for the Scottish Ministers to allocate funds from the Scottish Government block grant from financial year 2016/17, in the same way as other funding pressures are met.

Establishment of the welfare funds, and support for local authorities

31. There will be an administrative cost on the Scottish Government to put in place the necessary subordinate legislation, and to produce the statutory guidance to underpin the high level framework as set out in the Bill. These costs will be in addition to ongoing administrative costs on the Scottish Government in relation to the quality improvement programme for the SWF that is in place to support local authorities. This involves the collection of statistical information, a series of visits to local authorities to help them adjust to their new decision-making role, and sponsorship of a Development Officer based in COSLA.

32. The associated staffing cost for implementation of the Bill and ongoing support to local authorities, as outlined in paragraph 31, is estimated at approximately £340,000 per annum for 2014/15. This estimate is based on average staff costs for the grades of staff that are currently engaged in work related to the SWF and the implementation of the Bill. It is estimated that approximately £75,000 of the £340,000 is directly related to implementation of the Bill. These costs are anticipated to start to reduce in 2015/16, with further significant reductions in the following years, with estimated steady state costs being £65,000 per year. These costs will be met through existing resources in the Welfare Divisional Budget and are predictable and fairly certain.

33. The Scottish Government has retained a sum of £150,000 from the administrative funding for 2013/14 and 2014/15 to support a quality improvement function for the interim scheme. In 2013/14, this funding was used for the COSLA Development Officer, a secondee from DWP, and training and awareness sessions and publicity materials for the interim arrangements.

⁴ http://www.scotland.gov.uk/Topics/Government/local-government/17999/11203/Circular#approve
COSTS ON LOCAL AUTHORITIES

34. The main cost on local authorities will relate to the administration of the scheme. As mentioned at paragraph 26 above, the Scottish Government made some £2 million available to local authorities for start-up costs for the interim SWF. The Bill does not make any significant alterations to the administrative requirements for local authorities. Therefore the Scottish Government does not anticipate that local authorities will incur any net costs to adapt to the statutory nature of the funds once the Bill is passed. Paragraph 39 below suggests areas where local authorities may make savings under the permanent arrangements.

35. The Scottish Government made a bid to the DWP in respect of funding for set-up costs, which included IT procurement, staff recruitment and training, publicising the new arrangements and necessary adjustments to premises. The basis of the distribution across local authorities was agreed with COSLA leaders and the joint COSLA/Scottish Government Settlement and Distribution Group. The set-up funding was distributed on the basis of cost elements that were included in the national bid for funding that was made by the Scottish Government to the DWP.

36. The distribution of the administrative funding for 2013/14 and 2014/15 was based on the number of applications for DWP CCGs and Crisis Loans (CLs) made from local authority areas in 2011/12 (the most recent full year’s data available from DWP). Grant funding was based on the number of awards for CCGs and CLs made from local authority areas in 2011/12 (the most recent full year’s data available from DWP). As for the set-up costs, the basis of the distribution across local authorities was agreed with COSLA leaders and the joint COSLA/Scottish Government Settlement and Distribution Group.

37. New functions for local authorities under the scheme include the set-up cost mentioned in paragraph 26. These sit alongside ongoing requirements in respect of delivery of the funds. The Scottish Government passed on to local authorities the full £5 million administration funding for 2013/14 that was transferred from DWP, and proposed passing on the transferred funds from DWP of £4.6 million in 2014/15. DWP had transferred a reduced sum for 2014/15 by assuming efficiency savings in year two of operation.

38. Following representations by local authorities to make £6.8 million available for administration funding in 2014/15, the Scottish Ministers decided to top up the administration funding that DWP had transferred for 2014/15 to £5 million to match that provided in 2013/14.

39. Under the interim scheme, local authorities have been undertaking second tier reviews with the associated costs of arranging and supporting panel meetings. They have absorbed these costs in to administration costs. Following the set-up of independent review by the SPSO, local authorities will no longer have to meet these costs. Discussions on administration funding will continue to take place with COSLA as local authorities establish the costs and benefits associated with administering the funds under the permanent arrangements.

40. One of the main benefits of local delivery of the welfare funds is the ability of local authorities to offer holistic support to applicants by facilitating access to other services. This approach should help to ensure that applicants can find a way to avoid being in crisis in the future. By helping applicants to set up or stay in their own homes rather than be in care, costs of
These documents relate to the Welfare Funds (Scotland) Bill (SP Bill 51) as introduced in the
Scottish Parliament on 10 June 2014

care services falling on local authorities should be reduced. The impacts of wider welfare
reforms aside, this should create a downwards pressure on other local authority budgets such as
section 12 emergency social work payments and homelessness in the longer term, though this
cannot be quantified.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

41. The Scottish Government has carried out a full Business and Regulatory Impact
Assessment\(^5\) and does not anticipate the Bill introducing significant costs on bodies beyond the
Scottish Government, local authorities and the SPSO.

42. The Scottish Government has not identified any costs that would be put on individuals as
a result of the introduction of the Bill.

SCOTTISH PUBLIC SERVICES OMBUDSMAN (SPSO)

43. Section 4 of the Bill provides for the SPSO to have powers to conduct reviews of
decisions made in relation to applications to welfare funds. The new powers diverge from
SPSO's traditional role in dealing with maladministration and will lead to further set up costs and
annual running costs for a separate unit that is envisaged within SPSO to deal with reviews for
welfare funds applicants.

44. The number of reviews that have been carried out under the interim scheme is
significantly lower than the number that was carried out by the DWP under the discretionary
Social Fund. This was not what was anticipated, and it has made it difficult to make reliable
estimates for the cost of administering reviews through the SPSO.

45. Under the discretionary Social Fund, the review functions to be undertaken by SPSO
were carried out by the Independent Review Service (IRS). The number of second-tier reviews
undertaken in Scotland by the IRS for financial year 2011/12 was 6258. The Scottish
Government does not have full data for second-tier reviews under the interim arrangements but
estimate that there will have been fewer than 500 reviews in the first year of running. Following
consultation with stakeholders, the Scottish Government has identified a number of potential
reasons why reviews are this low for the interim scheme.

46. One reason is that the SWF aims to take a holistic approach which means clients can
receive other help or advice even if they do not get an award from the funds. It may also be the
case that applicants are not fully aware of the second-tier review process or that a second review
by local authorities lacks credibility. The Scottish Government knows that many local authorities
have been paying grants for items of high, medium and low priority during the first year due to
relatively low initial application levels. This means that fewer applications have been rejected
than the Scottish Government might have expected. It may be that this has resulted in fewer
requests for review.

\(^5\) http://www.scotland.gov.uk/Topics/People/welfarereform/scottishwelfarefund/welfarefundsbill
47. Based on assumptions that review numbers will rise as the review process becomes more widely known, the Scottish Government anticipates there will be more reviews conducted by the SPSO than the number of second-tier reviews the Scottish Government has seen so far in the interim scheme. However, changes to the way the welfare funds will operate in comparison with the Social Fund mean that the Scottish Government does not anticipate that review numbers will reach the level handled by the IRS. The Scottish Government has used a planning assumption of 2,000 reviews per year to provide figures for the cost of setting up and hosting reviews within SPSO.

48. Working with the SPSO, the Scottish Government has estimated the following costs: set up costs of £60,000 to £100,000, based on the SPSO experience of setting up a new function, and an estimated annual running cost of £400,000. The estimated annual running costs are based on the costs of delivery of a similar scale review function by the Office of the Social Fund Commissioner for Northern Ireland (OSFC). The most recent published figures for the OSFC are shown below.

<table>
<thead>
<tr>
<th>OSFC Expenditure in 2012/2013</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Business Operating Costs</td>
<td>£58,690.27</td>
</tr>
<tr>
<td>Salaries</td>
<td>£314,852.72</td>
</tr>
<tr>
<td>Total</td>
<td>£373,542.99</td>
</tr>
</tbody>
</table>


49. These estimates will be subject to review as the new process is established (the SPSO has requested an initial review after six months) but they are the best indicators that are available, drawing on experiences the SPSO has in setting up new functions, and learning from other review bodies in respect of their costs.

50. As discussed above, there is uncertainty over the number of reviews that will reach the SPSO. This means there are significant uncertainties relating to these costs, not least in relation to the possibility that the SPSO may have to physically expand their estate to accommodate the expected number of staff required to undertake reviews. Any expansion of the SPSO estate would be subject to interactions with its current functions and staffing levels and the costs relating to second tier review functions would be subject to negotiation.

51. If the number of reviews does not rise as expected, there may be a reduction in the cost of undertaking second-tier reviews, although the reduction in costs would not be in direct proportion to the reduction of cases, as fixed costs would remain. Some reductions in cost may be possible by reducing staff numbers. However, to ensure quick turnaround of cases a minimum staffing level would be required – this minimum staffing level will be established over time, as it becomes clearer how many reviews SPSO will be undertaking. It is reasonable to assume that, with a considerably lower number of reviews, say 400 per annum, staff costs could be reduced by something in the region of £150,000, giving an annual running cost of approximately £250,000. The table below shows estimated running costs for high and low levels of demand for second-tier review.

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These documents relate to the Welfare Funds (Scotland) Bill (SP Bill 51) as introduced in the Scottish Parliament on 10 June 2014

<table>
<thead>
<tr>
<th>Level of second-tier reviews</th>
<th>Estimated annual costs of administering second tier review in SPSO (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>High – 2000 reviews</td>
<td>400,000</td>
</tr>
<tr>
<td>Low – 400 reviews</td>
<td>250,000</td>
</tr>
</tbody>
</table>

52. Costs relating to the SPSO review procedure that are provided for in the Bill will be met through grant funding from the core Scottish Government block grant. This funding will be transferred by the Scottish Ministers to the SPCB in years 2014/15 and 2015/16, who in turn will pass the funding to the SPSO. There is provision in the Welfare Reform Mitigation Budget to meet the initial set-up costs for the SPSO review function and the running costs in years 2014/15 and 2015/16.
SCOTTISH GOVERNMENT STATEMENT ON LEGISLATIVE COMPETENCE

On 10 June 2014, the Deputy First Minister and Cabinet Secretary for Infrastructure, Investment and Cities (Nicola Sturgeon MSP) made the following statement:

“In my view, the provisions of the Welfare Funds (Scotland) Bill would be within the legislative competence of the Scottish Parliament.”

PRESIDING OFFICER’S STATEMENT ON LEGISLATIVE COMPETENCE

On 10 June 2014, the Presiding Officer (Rt Hon Tricia Marwick MSP) made the following statement:

“In my view, the provisions of the Welfare Funds (Scotland) Bill would be within the legislative competence of the Scottish Parliament.”
These documents relate to the Welfare Funds (Scotland) Bill (SP Bill 51) as introduced in the Scottish Parliament on 10 June 2014

WELFARE FUNDS (SCOTLAND) BILL

EXPLANATORY NOTES

(AND OTHER ACCOMPANYING DOCUMENTS)

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