Preamble to consultation response

Argyll and Bute Council welcomes the opportunity to respond to this consultation. The Council considers that the interim scheme has provided an effective source of support to some of the most vulnerable in our communities. However it notes that many applicants are not eligible for support from the Scottish Welfare Fund as their hardship often reflects a delay in processing their benefit application and they have to be referred back to DWP for a short term benefit advance. Others were initially not eligible as their hardship stemmed from a benefit sanction and they were excluded from the scheme until April 2014. With the introduction of the new claimant commitment, the incidence of claimant sanctions is expected to rise. The council is aware that this is in line with UK government policy but is concerned about the impact on the welfare of some of the most vulnerable members of our community.

The Council considers that the introduction of SWF has worked well. Although volumes of applications have reduced from those experienced by DWP, this is in part due to the reduced reliance on cash for support and the increased use of goods and vouchers. Whilst undoubtedly less popular with claimants, this means that assistance is much more targeted. The new national contract from Scotland Excel has also meant that better value can be obtained through increased purchasing power. The council considers these aspects to be a major improvement. The council has also welcomed the fact that grants do not have to be repaid and would be keen to see this element enshrined in legislation.

One of the key differences between Scotland and England is that a national scheme has been introduced in Scotland and it has not been left to individual local authorities to introduce different schemes for each local authority area as in England. This means that there is consistency of decision making. It should be noted that in Wales the decision was taken to have a single scheme operated by an outsourced company – Northgate – rather than by individual local authorities. It is disappointing that the consultation provides no information about how well each of the different approaches taken in England, Wales and Scotland is working. Such a review would be welcomed before the new guidance and detailed regulations are drafted.

Because of the short time for introduction, the opportunity was lost to commission a single national computer system to support the scheme and each local authority had to make its own arrangements. There are 4 main systems in use. There is now an opportunity to commission a single hosted national system to support the new permanent scheme, with a single set of parameters and interface facilities. This would be consistent with the national public sector ICT strategy.

This Council cannot sustain the current high cost of administering Scottish Welfare Fund payments. This council has serious concerns about the administration costs of
the current scheme which is currently very expensive to administer for small authorities with relatively low volumes despite making use of the Scotland Excel contract. There is an opportunity to consider the efficiencies of a single consolidated team to support telephone and on-line applications with the benefits of economies of scale. It would be much easier now to build in local variations in referrals, as this has all been worked out and is now known. This would be one way to improve its cost efficiency. The opportunity should be taken to ensure that the new permanent scheme is designed with key improvements in efficiency in mind.

General

Q1. 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?

Response:

The Bill enshrines in legislation the interim arrangements for the delivery of the Scottish Welfare Fund and is to be welcomed.

It is clearly aimed at meeting the stated objective of providing assistance for short term need. It is framed potentially more widely than the definition in the current interim scheme which covers short term need in an emergency or crisis where there is an immediate threat to health or safety. The current scheme does not provide assistance in other situations where short term need might also arise. If there is an extension to the scheme (which will not be clear until the regulations and guidance are drafted), this would need to be matched by the provision of commensurate funding.

The community care provisions are restricted to qualifying individuals, unlike the provisions relating to short term need. Whilst this is presumably essential in order to meet the requirements of The Scotland Act 1998, they are quite restrictive. A local authority might wish to support other disadvantaged groups in a similar way but is unable to do so under this scheme.

This council would like to see a more detailed section specifically on the purpose of the Scottish Welfare Fund. The current section mirrors what is included in SI 2013/192 The Scotland Act 1998 (Modification of Schedule 5) No. 2) Order 2013, but does not include anything additional which would set these arrangements apart from those enacted in England and Wales. Whilst this provides more latitude for future regulations, it does not reflect some of these distinctive differences which we think are valuable and should be retained. The main differences are that it is a national scheme and that assistance is by way of grants and not loans. It has not been left to individual local authorities to introduce different schemes in each local authority area and this provides some consistency of decision making. Whilst the bill makes reference to the need to have regard to guidance issued by Scottish Ministers, it does not enshrine the principle of a national scheme with local delivery.
Q2. 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?

Response:

The bill is framed at a high level and does not contain any detailed regulations which might reflect the learning from the interim scheme. The main change that it makes from the interim scheme is to create a formal second tier review process to be undertaken by the SPSO – see comments on Q7 below.

Q3. Is there anything else that you feel should be included in the Bill?
Response:

See comments made under Q1 above.

Q4. Will the Bill and its provisions have a particular impact on equalities groups?
Response:

The guidance on the fund will influence who is successful by specifying eligibility criteria. These are not set out in the Bill so we can make no comment on the potential impact on equalities groups. The current guidance does highlight certain vulnerabilities which may align with protected characteristics. The guidance for the interim scheme was broadened to now include people subject to DWP sanctions, and the definition of families has been widened to include families without children. These changes should be carried forward to the permanent scheme.

Administration of Welfare Funds

Q5. 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?

Response:

Yes. Local authorities should have the flexibility to determine how best to administer the scheme including outsourcing the scheme administration. The Bill provides no details on how the administration of the scheme will be funded. The interim scheme has proved expensive for smaller authorities to administer costing well in excess of the funds provided for this purpose. Local authorities should therefore have the flexibility to join together to achieve economies of scale should they choose to do so.
Review of decisions and the SPSO

Q6. What are your views on the proposed internal local authority review process?

Response:

The proposals allow local authorities to review decisions in certain as yet unspecified circumstances. Under the interim scheme, all applicants have had the right to request a review of their decision by a different decision maker within a certain time period in a broad range of circumstances. The reviewing officer cannot reduce or remove an award. This type of review is in line with the review mechanism for housing benefits and council tax reduction scheme applications and has operated in tight timescales. It is an appropriate mechanism.

Q7. Do you agree that the SPSO is the appropriate body to conduct secondary reviews?

Response:

The main advantage of having second tier reviews carried out by SPSO is in consistency of decision making and perceived impartiality. However this is at the expense of added cost. The current arrangements of having such reviews carried out at local by individual local authorities appear to have been working well and do not need replacing. The financial memorandum suggests that the cost per second tier review by SPSO could range from £625 per case (if review numbers continue to be low) to c £200 per case if they quadruple from current levels. These costs are considered disproportionate to the average value of a claim which is £88 for 2013/14. They represent an increase on current admin cost funding of 8% for less than 0.2% of the case load.

The SPSO is not currently equipped to be able to handle second tier reviews in the tight timescales needed for the Scottish Welfare Fund. There is concern that applicants and local authority staff would be required to attend appeal hearings in person at some distance which would be time consuming and costly for all. Currently second tier reviews are handled at local authorities and contact make with the relevant participants by telephone which is more convenient for all and much less costly.
Further provision – regulations

Q8. 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?

Response:

The content of the regulations as described by section 5 in the Bill appears comprehensive and appropriate. There are advantages in this detail being in regulations in order to allow these to be updated more easily should the need arise. As already stated in the response to question 1, we would prefer to see the decision that the scheme is to be one of grant payments rather than loans to be included in the bill and not left to regulations because of the fundamental nature of this decision.

Financial Memorandum

Q9. Do you think that the costs attributed to the running of the fund and the set-up of the SPSO to administer secondary reviews are realistic and proportionate?

Response:

No – the costs incurred by local authorities in running the fund have been understated. There has been no attempt to collate actual costs of operating the Scottish Welfare Fund in its first full year of operation by local authorities. The costs incurred by this council have been well in excess of the funding provided. This has had a detrimental knock-on effect on other services provided. In 2013/14 this authority processed 2,310 applications and made 1,638 awards and received funding of less than £24 per case. This included making the decision, recording applications and decisions, reviewing decisions where necessary, fulfilling the awards and providing data to Scottish Government. The administration costs are possibly reasonable where the volumes allow for some economies of scale, but they are understated for smaller local authorities due to the complexities surrounding the provision of goods as opposed to cash.

In contrast, the budget for SPSO of £400,000 for reviewing up to 2,000 cases per annum appears realistic.

Other provisions

Q10. Do you have any comments on any other provisions contained in the Bill that you wish to raise with the Committee?

Response:

Section 1(b) should be removed. Local authorities already have powers to make welfare payments under the Powers to Advance Wellbeing and there is no need to
confuse monies specifically provided by Scottish Ministers for this welfare fund with other monies provided by local authorities. Any additional monies provided by local authorities should not necessarily be restricted by the terms of the statutory guidance and the detailed regulations which will be laid in future.

Section 6(3) has been revised from the earlier draft and no longer requires Scottish Ministers to consult every local authority to which the guidance relates before issuing, varying or revoking guidance. This omission should be rectified. Individual local authorities operate the scheme and their views and learning should be taken into account.

Judy Orr
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Argyll and Bute Council
25 August 2014