1. **Introduction**

COSLA welcomes the opportunity to provide written evidence to the Welfare Reform Committee on the Bill and its likely impact. This written evidence complements the submissions of member Councils and reflects the views of Scottish Local Government Leaders. COSLA will also be sending comments on the financial aspect of the Bill to the Finance Committee.

2. **Background**

COSLA is the representative body for all 32 Councils in Scotland. Councils are already administering Crisis and Community Care Grants on an interim basis, using jointly developed guidance, under an agreement between COSLA Leaders and the Scottish Government.

COSLA has worked closely with the Scottish Government Bill Team and local authorities around the content of the Bill and the accompanying Welfare Funds (Scotland) Regulations.

3. **Consultation Response**

**General**

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?**

Yes, COSLA is in favour of the Bill and the provisions it contains. COSLA welcomes the action to place the Scottish Welfare Fund on a statutory footing and is satisfied the content of the Bill builds on the collective experience of local authorities. The package of regulations and statutory guidance will provide national consistency whilst allowing local authorities to react to local challenges through discretionary decision making.

COSLA welcomes the intention contained within Section 6 of the Bill, which includes statutory consultation with bodies representing local authorities when any changes to the guidance are planned. This will ensure the already strong partnerships, which have made the implementation of SWF interim scheme a success, continue.
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?**

Yes, the Bill and the accompanying Regulations reflect the current interim guidance well. The interim guidance for Scottish Welfare Fund has evolved through time, the changes made around qualifying benefits and assistance for those customers subject to DWP sanctions, are examples of how the learning from the interim scheme has shaped the Bill and accompanying draft Regulations.

Local authorities continue to meet regularly with the Scottish Government to discuss the interim arrangements. These meetings are chaired by COSLA and provide the opportunity to discuss how the interim scheme is working in an operational setting. These discussions ensure the interim guidance, associated draft Bill and Regulations not only reflect the policy intention but also achieve consistency across Scotland around administration.

Case sampling completed during visits by the Scottish Government’s Quality and Improvement Officer, accompanied by COSLA’s SWF Development Manager, has shown how the interim guidance is being applied day to day and has highlighted areas of the interim guidance which would benefit from further clarity or inclusion in the Bill.

The Scottish Welfare Fund Reference group, established and chaired jointly by COSLA and the Scottish Government includes representatives from third sector partners, the Scottish Prison Service and Scottish Public Services Ombudsman, also regularly provide information on how the interim scheme is performing both locally and nationally, again ensuring learning from the interim scheme is reflected.

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

Yes, Section 6 (3) has been removed from the earlier draft published during the consultation which closed in February this year. The Bill as drafted no longer requires Scottish Ministers to consult every local authority before issuing, amending or revoking guidance. This should be rectified. Individual local authorities operate the scheme and their views and learning should be taken into account.

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

COSLA worked with Scottish Government Officers during the Equalities Impact Assessment update, completed in May 2014, which took account of the progression from the interim scheme to the statutory scheme. COSLA is satisfied that the key areas of activity highlighted in the Policy Memorandum accompanying the Welfare Funds (Scotland) Bill will minimise impact on equalities group.
COSLA agrees with the notion that the regulations and the statutory guidance will have a greater impact on equalities groups than the actual Bill itself and will work with the Scottish Government during the further EQIA planned.

**Administration of Welfare Funds**

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?**

COSLA is supportive of the flexibility this option allows, whilst mindful any such arrangements should recognise the benefits associated with the provision of holistic support to customers through facilitating access to other local services.

**Benefits**
- Economy of scale
- Increase consistency across neighbouring councils
- Opportunity to share best practice

**Drawbacks**
- Potential loss of local proximity and knowledge of the local area
- Capacity to react to local events e.g fire, disaster, quickly potentially impacted
- Difficulties could arise trying to signpost to other services within local authority

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

The proposed internal local authority review process contained in the Bill replicates the existing arrangements councils complete to review 1st tier SWF decisions under the interim scheme.

If a customer is unhappy with the decision, they can ask for a first tier review to the council who made the original decision. This 1st tier review provides the council the opportunity to ‘remake’ the original decision having looked at the evidence and any new information that has come to light. The case is considered by a decision maker not involved in the original decision and the case reconsidered on the merits of the case.

The current process is low in costs, quick and the decision is examined and changed if appropriate at the earliest opportunity. There is no evidence to suggest the 1st tier internal review arrangements currently in place under the interim scheme are not working.

One concern is the ability of councils to meet the timescales for 1st tier review should these increase dramatically. The level of 1st tier review requests needs to be monitored closely to determine whether the level of resource available within councils can sustain the demand for review, without compromising the overall administration of SWF.
7. **Do you agree that the SPSO is the appropriate body to conduct secondary reviews?**

Whilst the SPSO review option provides the majority of characteristics of review identified in the original consultation paper, COSLA Leaders are of the opinion it would be more consistent with the principles of local self-government for secondary review decisions to be made at a local level and would provide a proportionate and timely solution.

With regard to the SPSO the points below are as a result of the Bill’s publication and the briefing note published by the SPSO on the subject. The Scottish Government and SPSO both acknowledge this role as an unusual extension of powers. COSLA is keen to stress that whilst assessing discretionary decisions and considering the merits of the case local policies are taken in to account e.g the way SWF payments are actually made differs significantly across local authorities.

The transfer of responsibility for 2nd tier review will also see SPSO decisions binding on local authorities. The interim SWF operates on a discretionary, budget-limited basis with applications being prioritised according to need. COSLA has concerns that if the number of reviews rise and the number of cases being overturned by SPSO increases councils may encounter potential difficulties managing their SWF budget in year. How this works in practice needs careful consideration to ensure budget management is not compromised.

COSLA worked closely with the SPSO and Scottish Government around the subject of reviews during the initial consultation on the Welfare Fund (Scotland) Bill. COSLA supports the view that review numbers will rise as the process becomes more widely known but that number will not rise to the numbers dealt with by the Independent Review Service previously. COSLA agrees with the costing model and estimated costs based on the upper and lower number of reviews. The cost case would be £625, if review numbers continue to be low, or £200 per case if review numbers rise to the upper level. These costs would be considered disproportionate when compared to the average value of a Crisis Grant of £88. If the number of reviews were to stay at a low level we would have to question whether the costs associated with this option were proportionate to the number and level of grants involved even when compared with the higher awards associated with Community Care Grants.

The SPSO briefing note on SWF reviews includes the SPSO’s intention to look at complaints and reviews together as there appears to be considerable overlap between the two. Whilst COSLA recognises the potential benefits for the customer from this approach COSLA will seek to ensure during detailed discussions that processes are in place to prevent the artificial complaints being generated. Detailed work through of the examples contained within the SPSO briefing note and other examples from local authorities and stakeholders will be necessary to understand how this will work in practice.
Target times for SPSO to deal with cases need to recognise the role Councils will have in the process. Councils will have to divert resources from determining SWF applications to respond to SPSO requests for information. The timescales need to be realistic and achievable, whilst recognising the urgent need customers are experiencing.

COSLA notes the intention of SPSO to report on cases reviewed and believes this will assist in driving forward improvement, consistency in decision making, staff understanding, and inform local and national policy however it must be clear the cases reported are reviews and not maladministration or service failure. Failure to make this distinction could adversely impact the reputation of councils.

COSLA welcomes the SPSO’s intention to work with Scottish Government, local authorities and other stakeholders, to address these and other issues as part of their preparations.

Further provision - regulations

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?

COSLA has worked closely with local authority practitioners, stakeholders via the SWF Reference Group, and the Scottish Government Bill Officers, and is satisfied that the level of detail in the Bill accurately reflects the policy intention.

The accompanying Regulations and statutory guidance provide consistency without eroding the ability of local authorities to make discretionary decisions that reflect local priorities.

Financial Memorandum

9. 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?

The administrative funding provided to councils falls someway short of the actual costs associated with the service being delivered. This inadequate funding is causing significant concern within local authorities.

COSLA accepts the Scottish Government topped up the administrative funding transferred from Department for Works and Pensions (DWP) for 2014/15 to 5 million, following discussions with COSLA, and that provision has been made for this within budget plans for this to be maintained for 2015/16. Even with this top up, the funding still falls some way short of the 6.8 million originally requested, following work completed with COSLA members.
The level of funding provided to local authorities to administer the scheme is the level of administrative funding DWP allocated to achieve the previous transactional discretionary elements of the Social Fund scheme. The DWP provided a ‘typical’ loan system under the Social Fund, the amount of administrative funding allocated was around 20% of the total fund available for distribution.

The Scottish Government is of the belief that 15% of the programme budget is adequate to administer SWF in the context of typical administration grants procured being in the region of around 10%. However the Welfare Funds (Scotland) Bill, the accompanying Welfare Funds (Scotland) Regulations and the jointly agreed interim guidance all make it clear that councils should provide additional support and assistance over and above the administration of any award.

Discussions on administrative funding will continue to take place to establish the costs and benefits associated with administering the funds under the permanent scheme. COSLA continues to actively engage with local authorities around the costs of administration to provide evidence to form the basis of these continued discussions.

With regard to the set-up of the SPSO to administer secondary reviews, COSLA supports the Scottish Government view that the review numbers will rise as the process becomes more widely known but that numbers will not rise to the numbers dealt with by the Independent Review Service, due to the differences in the way SWF is operated by local authorities. Local authorities provide a holistic service with other outcomes where a payment from SWF is not available.

COSLA agrees with the costing of the SPSO model and the estimated costs based on the upper and lower number of reviews and welcomes the fact 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. However, as mentioned, should the number of 2nd tier reviews received by the SPSO be at the lower end of the scale this option will be expensive for the number and value of awards involved.

Other provisions

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

No

COSLA
1 September 2014