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?

1. Capability Scotland is in favour of the Welfare Funds (Scotland) Bill. The Scottish Government has heeded our call to legislate for a national framework for the Scottish Welfare Fund and now has the opportunity to establish a welfare fund which is accessible, accountable and transparent to disabled people across Scotland.

2. The SWF is an important mechanism for mitigating some of the worst effects of welfare reform on disabled people in Scotland. By increasing investment and ensuring that the fund is accessible, the Scottish Parliament and Scottish Government have the opportunity to prevent many disabled people and those using community care services from reaching crisis point. This preventative measure may prevent their costly reliance on public services such as the NHS, residential care or homelessness services.

3. However we have concerns that disabled people experiencing crisis or instability may have difficulty accessing the fund as a result of certain provisions of the Bill.

4. Under the UK discretionary social fund families experiencing exceptional pressure were listed amongst the categories of applicant eligible for community care grants. The term ‘exceptional pressure’ was not defined and included pressure resulting from a range of factors including disability. The Bill does not currently make provision for families under exceptional pressure. This is particularly concerning given that families with children where one of more members of the household are disabled are disproportionately affected and face ‘the highest total reduction in income as a result of reforms announced during 2010-2015, at £1,900 per year on average by 2015. In terms of percentage of annual income, this is around three times the average reduction in income faced by non-disabled households generation’¹. We would therefore ask that a third category be added under article 2(2) to include amongst qualifying persons (currently limited to those facing or leaving prison, hospital, residential care or homelessness) ‘families under exceptional pressure’.

5. Disabled people in Scotland are disproportionately disadvantaged by welfare reforms, to the extent that Disabled Person’s Organisations in Scotland state that current reforms may ‘represent the single greatest threat to disabled people’s right and ability to live independently in over a generation’². Households containing a disabled person are being subjected to over half of the total of £22 billion of benefit

¹ Scottish Government, Financial Impacts of Welfare Reform on Disabled People in Scotland, August 2014
² Bill Scott The Broadest Shoulders? Disabled People and “Welfare Reform” CONCEPT Vol. 5 No. 1 Spring 2014
cuts already announced\textsuperscript{3}. Capability Scotland believes that it is imperative that the Scottish Government take every legislative means at its disposal to mitigate against this. Given that the alternatives to the SWF for disabled people are often high interest lenders, ‘loan sharks’ or choosing which essentials to go without we would ask that section 2(2) of the Bill should also include “\textit{disabled people who would otherwise be unable to maintain their ability to live independently, pertinent to their individual circumstances}.” amongst the categories of individual eligible for the SWF.

6. The Bill should also make it clear that where an award is made under the scheme that it is a grant rather than a loan and that no repayment of awards will be required.

7. We have argued in evidence to the committee before that in order to ensure that the Scottish Welfare Fund is sufficient to meet the demands of disabled people in every area of Scotland that funds be ring-fenced so that disabled people across Scotland do not experience a post-code lottery in terms of provision. While section 1 of the Welfare Funds (Scotland) Bill will allow the funding for the SWF to be ring-fenced, it does not oblige the Scottish Government to do so. Given the increasing pressure on the SWF Capability Scotland does not believe this provision is strong enough.

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?

8. The Scottish Government’s own statistics show that in the first year of the interim scheme, more than 80% of Community Care Grants were made in kind. We believe this to be a worrying development as payments in kind potentially remove choice and undermine the dignity of disabled people. It is also essential that, where assistance is given in kind, the goods allocated meet the applicant’s needs - for example in cases where disabled people require specific equipment by reason of medical need (for example a particular type of bed). In such situations it is essential that an appropriate supplier is identified or that a cash payment is made.

9. We are concerned that local authorities may be hampering their own discretion by refusing applications from disabled people who are not considered to be ‘vulnerable’ or at crisis point. Given that refusal to accept an application undermines the transparency of the scheme by depriving the applicant of their ability to request a review we would argue that the bill should place a duty on local authorities to accept all applications made to the fund then consider alongside award criteria. This would not only prevent local authorities from hampering their discretion but would also allow the Scottish Government to collect accurate and comparable data about levels of demand for the SWF across Scotland.

10. Following concern in regard to allocation and spending patterns of the Scottish Welfare Fund as identified in SPICe Briefing, \textit{Welfare Funds (Scotland) Bill, August 2014}, further analysis and consideration needs to take place to ensure that full and appropriate use and administration of the Fund.

\textsuperscript{3} Grant E & Wood C (2010) \textit{Destination Unknown}, London, Demos
http://www.demos.co.uk/publications/destinationunknowndisability
4. Will the Bill and its provisions have a particular impact on equalities groups?

11. We have a concern that multiple vulnerabilities experienced by disabled applicants to the SWF may not be properly recorded due to software failure. The Scottish Government’s own Equality Impact Assessment in relation to the current Bill states “It would appear that some systems are recording default responses rather than real responses or that they offer limited options for recording, due to the design or configuration of the software”. According to current Scottish Government guidance, the vulnerabilities which local authorities should be recording are those characteristics or circumstances which should be considered by decision makers in prioritising awards. Many of these vulnerabilities are more likely to be experienced by disabled people, and in many cases, multiple vulnerabilities - mental health problems, learning difficulties, physical impairment or other disability, including sensory impairments, chronic illnesses and terminal illnesses. Failure to consider these multiple vulnerabilities creates a risk that applications from disabled people will not be given sufficient priority in relation to the SWF.

12. Given that applications to the SWP to date have predominately been via telephone, in writing and in person, there is a need for continued review of the application process to ensure the accessibility needs of disabled people are being met in what requires to be an expedited process.

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?

13. We have concerns about section 3(1) which states that “A local authority may make arrangements for another person to administer its welfare fund on its behalf.” No mention is currently made as to the suitability of this ‘person’. Regulations should set out the criteria that third parties must satisfy in order to be considered suitable – for example an ability to deliver the scheme fairly and effectively as well as an awareness of the specific needs and requirements of disabled people.

14. There should be due consideration given to any potential additional costs involved in the devolved administration on the SWF that would reduce the amount of fund directly reaching the intended beneficiaries. There should be no additional cost implications associated with this should a local authority decide to implement this arrangement.

15. Should local authorities decide to devolve administration to ‘another person’, consideration needs to be given to data protection and information sharing.

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

16. Yes, we are very pleased that the SPSO will take on the role of hearing second tier reviews as we have always called for an independent review of social fund decisions. We are, however, keen to ensure that the procedure for both requesting a
review and making a complaint to the SPSO are clear and straightforward to disabled applicants and that review rules are made available in alternative and accessible formats.

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