About ENABLE:

ENABLE Scotland is the largest voluntary organisation in Scotland of and for children and adults who have learning disabilities and their families. We have a strong voluntary network with around 4000 members in 44 local branches and via individual membership.

Around a third of our members have a learning disability. ENABLE Scotland campaigns to improve the lives of people who have learning disabilities and their families and carers. ENABLE Scotland also provides social care services to more than 2,000 people across Scotland who have learning disabilities or mental health problems.

ENABLE Scotland employs a Welfare Rights Adviser providing advice and information across Scotland and two Money Advice Workers providing debt advice in Glasgow and North Lanarkshire.

The Scottish Welfare Fund is a potentially crucial form of support for people with a learning disability and we are as pleased to have the opportunity to respond to this call for evidence as we were to respond to the draft Welfare Funds (Scotland) Bill consultation in January 2014.

Our position on the future of the fund remains the same as in our previous response. We are pleased that the Scottish Government is committed to the continuation of the fund, and we remain concerned that the cumulative impact of welfare reform will lead to an increase in the number of people with a learning disability requiring assistance.

Increased conditionality, poor administration of benefits, cuts to Housing Benefit and the move from Disability Living Allowance to the Personal Independence Payment are all likely to lead to reductions in the budgets of people with a learning disability and their families.

ENABLE Scotland would also like to take this opportunity to renew our call that consideration be given to the accessibility of the fund to ensure that people with a learning disability are able to access it.

Whilst some people with a learning disability will have the support of an advocate, advice agency, friend or family member, it is important to recognise that many others may not have any support and so will be particularly vulnerable to destitution or failure of their tenancies that access to the fund could avoid.

We remain happy to work with the Scottish Government and local authorities on the issue of the accessibility of the Scottish Welfare Fund.
Consultation Questions

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?

ENABLE Scotland welcomes the fact that the Scottish Government aims to legislate to confirm the need for the existence of a specific fund to provide help to those with both short term needs and community care assistance.

Many people with a learning disability are reliant on social security benefits as their only source of income and we feel that it is important that alternative sources of funding exist for both crisis situations and to purchase larger items which would be difficult to meet from limited budgets.

Whilst we have made some suggestions for changes we would like to see to the proposed Bill and regulations, overall we are supportive of the intentions of the Bill.

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?

It is difficult for ENABLE Scotland to respond to this as many of the issues experienced by our members will be localised due to each local authority running its own version of the scheme.

Although we have made some suggested changes to the draft Bill and Regulations, in the main we are happy with the fact that the scheme will be continued and that legislation is being created to ensure a level of uniformity across Scotland.

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

In our response to the draft Welfare Funds (Scotland) Bill consultation in January 2014 we made three recommendations for inclusion in the Bill.

We recommended that a section be included within the Bill to make it clear that decisions would be subject to a first and second tier review process. We are pleased that the draft Bill has been amended to include this.

We also recommended that sections be included detailing how a claim to the fund could be made as well as the decision making process. Whilst the decision making process has been covered in the draft regulations, we have noted that no further detail has been supplied surrounding the making of an application.
We would suggest that (both the draft Bill) and the regulations are amended to include this.

Finally, we recommended that the five circumstances where an individual could be considered for a Community Care Grant be listed within the Bill. Although the draft regulations note these circumstances, we would repeat our call that this should be on the face of the Bill.

4. Will the Bill and its provisions have a particular impact on equalities groups? The Scottish Welfare Fund will undoubtedly have impacts on different equalities groups. People with a learning disability can often be potentially vulnerable due to a lack of support when accessing services such as health, education, housing and social security benefits.

ENABLE Scotland believe that higher than average rates of unemployment, the impact of welfare reform and problems accessing statutory services are likely to mean that people with a learning disability require the assistance of the fund more than the general population. We are keen to ensure that the fund is fully accessible across the whole of Scotland.

ENABLE Scotland call on the Scottish Government to ensure that people with a learning disability and other groups are not being disadvantaged by the application or decision making 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? ENABLE Scotland do not agree with the proposal that local authorities should have the option to outsource the provision of the fund to a third party.

The Scottish Welfare Fund is a crucial form of support for those experiencing short term crisis or who require assistance to obtain items that would be hard to budget for from limited benefit income.

Although decisions on application to the fund will contain elements of discretion, ENABLE Scotland is clear that the right to make an application to the fund be seen as a statutory right and feel that the scheme should be delivered by a statutory body with third sector input into decision making guidance.
In order to preserve clear lines of accountability we would also prefer that each local authority administered its own system, but recognise that in some cases it may be more cost effective for local authorities to jointly administer the fund to ensure that more of the money is spent on the purpose rather than the administration of the fund.

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

ENABLE Scotland is pleased that applicant’s right to request a review of a refusal decision is made clear in both the draft Bill and regulations.

We would, however, recommend that the time limit given within the draft regulations to request a review be amended to one calendar month. This would bring Scottish Welfare Fund decision review time limits in line with most social security decision time limits making time limiting rules easier for claimants to understand across the system.

We also recommend that the regulations make it clear the ways in which a review can be requested i.e. in writing, verbally or both.

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

In our response to the consultation on draft Welfare Funds (Scotland) Bill, we suggested that the SPSO would be our preferred if it were to see the creation of a specific Scottish Welfare Fund unit within the SPSO with the power to change decisions.

We are pleased to note that, alongside the power to change decisions, that the SPSO have stated in their briefing note that their intention would be to create a specific unit to deal with Scottish Welfare Fund reviews (should caseload allow this).

We are also pleased that the SPSO have recognised that the review process must be fully accessible as a large number of applicants will be vulnerable and/or have complex needs. They have gone on to give specific examples (such as oral review applications) of how they intend to ensure that the process is accessible. We fully support these intentions.

ENABLE Scotland is also happy that the SPSO has made reference to the level of service provided by the Independent Review Service when they were responsible for the review of DWP Social Fund decisions. We would agree that this is a model of good practice.
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?

In our response to the Welfare Funds (Scotland) Bill consultation, we requested that both the Scottish Welfare Fund Bill and regulations give clear details on the application and decision making process.

We are delighted that this has been included within the draft Bill (section 5 (2)(a)(b)) and that further detail has been provided within the regulations for the decision making process (section 10). We have noted, however, that no such section has been included within the draft regulations to cover the application process and would recommend that this is added.

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?

ENABLE Scotland is happy that the SPSO’s response has identified that, depending on caseload, their preference would be to have a dedicated team dealing with Scottish Welfare Fund reviews. They have also accepted, however, that this work may have to be taken on by established teams should the demand not exist to justify a specified team.

We feel that this indicates a proportionate response to administering a second tier review system.

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

ENABLE Scotland would like to take this opportunity to raise two additional issues.

Firstly, we would recommend that further definition be given to the term “resident” in either the Bill or regulations. It is our opinion that a clear definition of this term in law is likely to lead to a reduced number of reviews or appeals in this area.

Secondly, we would recommend that it is made clear within either the Bill or regulations that income from Disability Living Allowance, the Personal Independence Payment or Attendance Allowance is not to be counted when assessing an applicant’s available income.