1. Introduction

1.1. As the national representative body for housing associations and co-operatives in Scotland, the SFHA welcomes the opportunity to respond to the Welfare Reform Committee’s invitation to offer views on the Welfare Funds (Scotland) Bill.

1.2. To provide context, housing associations and housing co-operatives in Scotland own and manage 46% of the country’s affordable rented housing stock. This represents 274,996 homes across Scotland, concentrated in some of the poorest communities in our country.

1.3. There are some important and distinctive features of associations which differentiate us from other public bodies. Our members are:

- Independent businesses with goals aligned to the Scottish Government in providing and managing high quality affordable accommodation and housing services;
- Responsible for accessing and managing some public resources for house building, but mostly reliant on our tenants’ rents for income and expenditure;
- Managing businesses imaginatively and inventively to benefit housing and communities through our not-for-profit ethos;
- Accountable to our members and tenants, who live or have other interests in the communities and places which they create;
- Regulated by an independent Scottish Housing Regulator;
- Able to demonstrate added value in terms of care and support, wider role and financial inclusion.

1.4. It would be misleading to think of housing associations as a homogeneous group. They were formed from a variety of different circumstances and come in all shapes and sizes, ranging from large ex-local authority stock transfer organisations with tens of thousands of properties, to small community-controlled organisations owning a couple of hundred homes.
2. General

2.1. The SFHA welcomes the Bill and its provisions. Our members have a keen, valid interest in the creation of a successfully administered Welfare Fund that will alleviate crisis situations and facilitate settled tenancies for our tenant and customer groups. As the Bill has evolved from the interim scheme, there has been the opportunity to review its operation through a well consulted process, amend the eligibility for assistance in the light of experience and thus shape what the Bill should cover.

2.2. We welcome the specific effort the Scottish Government has made to standardise decision making over the course of the interim scheme, and also the broadening of eligibility to include households without children who were under exceptional pressure. We recognise that giving the interim scheme a legislative foundation is a natural progression, though we would urge that operational review and amendment of regulations, if necessary, should be maintained, based on monitoring and evaluation data supplied by the administrators of the fund.

3. Administration of Welfare Funds

3.1. The SFHA’s principal concern is that the process is transparent and accountable. There have been concerns raised in the past about bodies that fall outwith the public audit model.¹ It is therefore important that there is systematic monitoring and evaluation of the operation of the fund, which should be laid out in the regulations.

4. Review of Decisions

4.1. Given the necessity of a rapid response, particularly in respect of Crisis Loans (which by their very nature are urgent), prompt service provision would need to be given, whichever body was responsible for second tier reviews.

4.2. The SFHA has reservations about the delegation of second tier review of decisions to the Scottish Public Services Ombudsman (SPSO). There is a risk of confusion of two roles: that of providing adjudication in the light of fresh evidence or on interpretation of legislation and the inquisitorial role into maladministration. It would sit awkwardly, should a claimant still wish to pursue a complaint of maladministration beyond the second tier review, if the SPSO had to investigate a process in which it had previously had a direct involvement.

4.3. The SFHA’s preference therefore would be for a tribunal under the aegis of the HM Courts and Tribunals Service. It would be independent of local authorities; legislative and regulatory interpretation would be entirely within its remit and expertise. It could sit locally and make timeous decisions with due service development.

¹ For example, Audit Scotland, (June 2013), Discussion Paper on Arms Length External organisations (ALEOs) (accessed 26th August 2014)
5. Further Provision – Regulations

5.1. The SFHA acknowledges that the strength of the proposed regulations stems from the experience gained in the operation of the interim scheme. There are three levels of control of the operation of the Welfare Fund: the Act itself, the regulations and the guidance. At present, the requirement to provide monitoring and evaluation data is contained lies within the Guidance – the least proscriptive level of control.

5.2. There is a concern that the standard of service varies between local authorities, but this cannot be fully assessed if some authorities do not provide complete monitoring and evaluation data, as has happened in the past. It is therefore recommended that the provision of monitoring and evaluation data should become a regulatory requirement. The regulations need to provide a measurable framework to ensure a consistent approach across all local authorities. Whilst it is recognised that there needs to be local discretion over the arrangements of delivery, the standard of delivery should be consistent nationally.

5.3. Whilst the SFHA recognises that there may be practical advantages to sharing a service across local authority services, we would have concerns about the maintaining and monitoring of standards in such circumstances, especially if the service was provided by a third party such as an Arms Length External Organisation. It is our view that it is essential that the regulations include requirements in respect of maintaining standards, data sharing, accountability and consistency.

6. Financial Memorandum

6.1. The SFHA supports the ring-fencing of funding. It is important that the level of funding is maintained beyond the current spending review.

7. Other Provisions

7.1. Given that a high proportion of applicants to the Scottish Welfare Fund may be those who have been subject to benefit sanctions, it is essential that the application process also encompasses a check that applicants have accessed or at least are aware of their rights to a reconsideration/appeal of the decision and access to a hardship payment.

7.2. It is unfortunate that no duties have yet been conferred on local authorities to have triage systems set up to connect claimants with the range of services in their area. If not an actual requirement, there should be an expectation put upon local authorities to provide onward referrals for specialist provision of assistance across the range of claimant needs, as a matter of good practice.

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² Scottish Government, (July 2014), Scottish Welfare Fund Statistics 2013/14 (Section 34 Data Quality)
8. Conclusion

8.1. The SFHA welcomes in principle the Bill and concurs with its necessity in order to mitigate the negative aspects of welfare reform.

8.2. Administration of the Welfare Funds should be transparent and accountable; to that end regulations need to make provision for systematic monitoring and evaluation of the operation of Welfare Funds and encompass requirements in respect of maintaining standards, data sharing, accountability and consistency.

8.3. Reviews of decisions need to be timeous, especially in the case of Crisis Grants. Delegation of second tier reviews would sit better with HM Courts and Tribunals Service rather than the SPSO, the better to distinguish between administrative interpretation and maladministration.

8.4. This concludes SFHAs submission to the Welfare Reform Committee’s call for views on Scottish Welfare Funds (Scotland) Bill.

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