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?

At Who Cares? Scotland we support care experienced young people until the age of 26 by providing relationship based independent advocacy across most local authority areas. We have reviewed the Bill’s provisions and support its endeavour in providing assistance for short term need and community care. We welcome that the Bill aims to put a more localised and holistic approach into statute, ensuring that the Welfare Fund adheres to minimum intervention principles and doesn’t create a reliance on a fund that is aimed at mitigating against deficits in short term need.

The Welfare Funds (Scotland) Bill Explanatory Notes explains that applicants will be “sign posted” to other services provided by the local authority. The explanatory notes state that the services referred to are commonly “advocacy, welfare rights, housing and money or debt management”. We believe that providing access to these services is right and will better enable applicants to develop better coping mechanisms to better manage future crises. For young care leavers we strongly believe this support should come from an independent advocate who, in our experience, can best support them through their care journey and continue to do so upon leaving care. The Children and Young People (Scotland) Act 2014, aims to ensure that care experienced young people are best supported in making the transition into independent living and most importantly have stable, long term relationships alongside them at this challenging time. As an organisation supporting care experienced young people, we would hope that accessing these holistic services would be encouraged prior to the young person embarking on their transition to independent living. We would also recommend that there should be a coordinated approach between corporate parents and Welfare Fund administrators to alleviate the stress caused during these unsettling transition times.

The Bill affirms that each local authority can supplement the funding provided by Scottish Ministers, although they are not obliged to do so. This raises the possibility that awards will not be issued solely on the basis of need but on what resources dictate or can afford. This means awards may vary depending on whether a local authority has chosen to supplement the funding from Scottish ministers or not. We are keen to understand how this inconsistency can be remedied or safe-guarded against, to prevent the commonly referred to ‘post-code’ lottery effect for Scotland’s care leavers.

The Staying Put Approach (2013) recognises that young people who grew up in care may develop complex needs both during and after that journey. This means that when they leave care they may struggle to engage with services. This can be for many reasons such as lack of information; ease of accessibility; a distrust of services
due to a high level of intervention throughout their childhood or a lack of motivation to engage when out with the formal care ‘system’. Those with complex needs are also more likely to leave the care system early\(^1\). Therefore it would be reasonable to suggest that this group of care experienced young people may be more likely to require access to the funds. As it is already recognised that care experienced young people with complex needs have difficulty in engaging with services, the holistic approach to linking them with other services, particularly independent advocacy, is embraced by our organisation. We are aware however, that not all local authorities at present provide independent advocacy specific to care experienced young people and so the support provided could depend on a young person’s geographical location. It would be beneficial if the Bill, or the explanatory notes, or guidance, advises local authorities on how they can mitigate against this deficit in support. This would better enable local authorities to meet their corporate parenting responsibility of ensuring that their services are accessible to all of their looked after population, as stated in the Children and Young People (Scotland) Act 2014 – especially in relation to a joined up Continuing Care and Aftercare service as is laid out in Parts 10 and 11 of the Act.

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 positive that those sanctioned by the DWP will be able to access the welfare fund, without the reason for the sanction being taken into account when coming to a decision. However Who Cares? Scotland’s advocacy workers have experience of young people being denied access to the interim welfare fund after the young person’s social media activities were scrutinised as a way of attempting to validate their claim. As an organisation we believe that this should not be permitted, and could hinder care experienced young people’s ability to build trusting relationships with those from the local authority.

Who Cares? Scotland was initially encouraged to see that Heriot-Watt University conducted an independent review into the progress of the SWF however we are left disappointed in the lack of representation of care leavers within this report. As a result, while we believe there has been some positive learning generally on the interim SWF, little attention has been given to how this process affects care experienced young people who often experience poverty stricken, transient and unsettled lifestyles once they leave care. Given that the state intervened in their childhood and was in charge of their care for all or portions of their childhoods – it seems necessary that upon leaving formal care the financial assistance available to support their transition into the daunting prospect of young adulthood and independent living is available and accessible.

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

Subsection 2, of section two, of the Bill states that welfare funds can be accessed by those who have been in a residential care establishment. The explanatory notes explain that those who have lived in an “other institution such as foster care” can also access welfare funds. As an organisation we work in partnership with young

people who live within a variety of care placements. We believe that it would be beneficial for the bill or the explanatory notes to name the different types of placements; for example being looked after at home or kinship care placements. This would reduce the risk of young people’s care experience not being recognised during the application process; and it would also align the Bill provision with the support rights granted by the Children and Young People Act (2014) for care experienced young people.

We would also recommend that all care experienced young people in receipt of continuing care or aftercare services should meet the criteria to access the fund. As an organisation, we appreciate that the Welfare Fund is discretionary and not based on entitlement. We would like to highlight that our advocates have supported young people to apply for community care grants, and the applicants have been denied items such as washing machines, as the decision makers deemed these items as not being essential. There have also been occasions when care experienced young people have had to resort to using sheets as blinds, for their ground floor flat, as again decision makers believed such items were not essential. These young people have to request access to this fund as they have, at best, a fragmented support network. As a result of these experiences we believe that it would be helpful if the Bill, or its guidance, gave clear direction on which items would be essential for those leaving the care system with no other source of funding. We accept that the review process has been further developed since the implementation of the interim fund and we are pleased that more applicants will now be aware of how to seek a review of a decision. If guidance provided direction to decision makers as to what items were essential there would be a more consistent approach to decision making, local authorities would also be better placed in meeting their corporate parenting obligation without having to utilise other funding streams. We would recommend that the actual experiences of former care leavers help to determine what items are essential.

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

The Bill affirms that the Welfare Fund is partly targeted towards supporting those transitioning out of a formal care arrangement. On average looked after young people in Scotland move on from the care system between the age of 16 and 18, whilst the average age for young people moving out of the family home in Scotland is around 25 years old. Those considering care leavers applications should remember that care leavers are at greater risk of experiencing homelessness, than any other group. This is also due to the high numbers of care leavers who find themselves unable or ill-equipped to access and sustain a positive destination – especially in comparison to non-looked after peers.

It is our understanding that normally an individual will not be awarded a crisis grant if they have already been awarded three in a twelve month period; unless they can evidence that they are not to blame for requiring additional grants. We would encourage those reviewing applications to consider the evidence base that demonstrates the difficulties faced by those leaving care at a young age. These

young people struggle to maintain the minimum level of income needed to support them in everyday living. As an organisation we would promote an individual and holistic response to the reviewing of applications and would hope that a standardised approach would not be adopted. If a care experienced young person requires a grant more than three times in a year, we would encourage local authorities to assist the young person in overcoming the crisis being experienced but also take an inter-professional approach to empowering care experienced young people to develop better coping strategies that will equip them to live independently. The provisions in the Children and Young People Act (2014) provide the framework for this. Therefore this financial assistance must seek to complement and enhance the application of that framework.

As previously stated, it is positive that those sanctioned by the DWP will still be able to access the welfare fund, without the reason for the sanction being taken into account when their application is being considered. Our advocates have experience of young people being denied access to the welfare fund after the young person’s social media activities were scrutinised as a way of attempting to validate their claim. As an organisation we believe that this should not be permitted, and could hinder care experienced young people’s ability to build trusting relationships with those from the local authority. In many cases care experienced young people are judged, demonised and classed as undeserving by a lot of society. Our welfare processes should not compound this.

**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?**

Section three of the bill - Administration of welfare funds - informs that local authorities can appoint a third party to administer the fund. The Bill informs that the third party appointed in administering the fund can be from either the private or voluntary sector. As the local authority will still be accountable for the fund it would be essential that any third party appointed is aware of the local authority’s corporate parenting obligations to Scotland’s looked after population. It would be essential that all those involved had a deep understanding of the challenges faced by the care experienced population and that they aspire to emulate best practice examples of corporate parenting. The Children and Young People (Scotland) Act 2014 embeds corporate parenting responsibilities into statute. The appointment of third parties in the administering of the Welfare Fund could bring about benefits to both applicants and to local authorities. We would hope that the appointment of third parties was done so on their ability and experience in working with vulnerable individuals, and in particular the care experienced population, as opposed to their ability to effectively ration resources. We would also expect that the inclusion of those from the private sector did not in any way negatively impact on the resources available to applicants, particularly if the organisation is aspiring to achieve a year on year profit.

Section three of the Bill also states that local authorities can work in partnership with one another in administering their funds. It would be beneficial to the care experienced population that these partnerships publish joint plans that tell of how they intend to ensure service provision is tailored to meeting the needs of the care
experienced population, as directed in the Children and Young People (Scotland) Act 2014. We believe that this could encourage a more universal approach to service delivery, although it should be considered that there could be a risk that these partnerships could make it difficult for the benefits of localised provision to be realised. This also reflects the cross-local authority placements and realities that many care experienced young people face during and after care.

**What are your views on the proposed internal local authority review process?**
The internal local authority review process is not sufficiently independent of the decision makers in charge of allocating the SWF. Who Cares? Scotland is concerned that those looking to review their unsuccessful application would be put off by the knowledge that those reviewing the decision are colleagues of those making the decision. In this circumstance it is imperative that those applying for a decision review are made fully aware of the SPSO led second tier review option and are supported to follow this option if necessary. Again, we believe that independent advocates are best placed to support care experienced young people in this process.

A further concern in regards to the review process is the complexity of seeking the second tier review. The effort and strength needed to pursue a review would be challenging at the first local authority review stage, never mind taking this one stage further. Who Cares? Scotland would be concerned that many would be unlikely to pursue the second stage review with SPSO following rejection at application stage and then again at the first tier review process. This set back is particularly pertinent for those care leavers who have little in the way of support.

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

As the Scottish Public Services Ombudsman (SPSO) has experience of working in partnership with the 32 individual local authorities that are utilising their own individual policies we agree that they are the appropriate body to conduct secondary reviews.

The SPSO has indicated - in its briefing note - that it intends to amend its structures and processes in order to ensure that it will be capable of fulfilling its new role. Our understanding of their brief is that they intend to construct a unit within their organisation if demand requires it. However if referral numbers reflect lower estimates, then the SPSO intends to create a small team of staff to deal with secondary reviews. The briefing noted that all staff will be trained in welfare rights and be in receipt of training that will ensure they will be effective in their new role. We would like the SPSO to consider delivering training to their staff specific to the needs of Scotland’s looked after population. If the referral rates permit the creation of a staffing unit within the organisation we would suggest they consider referring care experienced young people to specific staff. We believe this would enhance service delivery and ensure that those engaging with the ombudsman receive a competent service which meets their needs.

The SPSO has indicated that it will employ various methods in ensuring that they are accessible to all, we commend this and feel that local authorities should be
encouraged to provide the same level of accessibility in the initial application process.

**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 Bill’s accompanying documents highlight that individuals and families on lower incomes are expected to be placed under greater financial pressure as austerity measures continue to be introduced and as inflation rises. We feel that at present the funds allocated are realistic and proportionate although, we would respectfully request that the funds allocated reflect demand.

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

We are disappointed that the report by Heriot-Watt University reflecting on the interim fund was unsuccessful in engaging with any care experienced young people. As a result of this we are unable to feel confident that the learning from the last two years is able to incorporate the needs of one of the most marginalised groups of Scotland’s population; care leavers. Their poor social, economic and well-being indicators are well documented and known at national and local government level; and many of these correlate directly to the lack of financial resources to support them in their lives. They also correlate directly to the lack of sustainable positive destination outcomes for these young people upon leaving care. We would respectfully request that this committee takes action to remediate this by speaking directly to care experienced young people in order to collate their views and ensure that the provisions outlined are inclusive of their needs.

Who Cares? Scotland
28 August 2014