

**Child Poverty Action Group (CPAG) in Scotland briefing on the Welfare Funds (Scotland) Bill - Stage 1 Debate – 16<sup>th</sup> December 2014**

- CPAG in Scotland welcome the Scottish Government's approach to the development of the Welfare Funds (Scotland) Bill and the opportunity that CPAG in Scotland and other third sector organisations have had to influence the development of both the interim scheme and the current Bill.
- We are strongly in favour of the Welfare Funds (Scotland) Bill and the legislative underpinning it will give the Scottish welfare fund. The fund provides a vital means of ensuring vulnerable, low income households do not experience crisis and that they are not un-necessarily deprived of their ability to live independently. It also plays an important preventative role, providing a safety net to reduce pressure on costly public services such as residential care, homelessness services and the NHS.
- While CPAG in Scotland supports the general principles of the Bill, we are concerned that in the absence of certain amendments, the objectives of the welfare fund may be undermined and the fund may become inaccessible to many of those in greatest need – particularly low income, vulnerable, families with children. As such, we hope the following issues will be addressed as the Bill progresses.

**1) Eligibility of families facing exceptional pressure**

1.1 The Welfare Reform Committee acknowledged in its report that the “*the eligibility criteria may be drawn too tightly*” and recommends that the criteria in section 2 of the Bill be reconsidered to ensure that “*all those in legitimate need of the fund are able to access it.*”<sup>i</sup>

1.2 In particular, CPAG in Scotland is concerned that the Bill does not include “*families facing exceptional pressure*” amongst the categories of applicant eligible for community care grants. This group - which was eligible for community care grants under both the UK wide social fund and the interim SWF is not mentioned anywhere in the current Bill.

1.3 While the term ‘*exceptional pressure*’ has never defined in legislation DWP Guidance<sup>ii</sup> explained that it included pressure resulting from a range of factors including disability, relationship breakdown or a disaster such as a flood. The Guidance also contained examples of circumstances in which a family might be classed as under exceptional pressure. These included:

- a mother with young children needs household items following the violent breakdown of a relationship; **or**
- the sudden deterioration in the condition of a disabled child justifies an award for a washing-machine; **or**
- a family is experiencing hardship as the result of a localised disaster and urgently needs the replacement of essential household items damaged or destroyed as a result of this disaster.

1.4 In the event that this category does not appear in the Welfare Funds (Scotland) Act, many families may find themselves unable to access the welfare fund at times of extreme hardship. Indeed – under the Bill as drafted - they would only be able to access community care grants if they could show themselves to be at risk of prison, hospital, residential care, homelessness or an unsettled way of life<sup>iii</sup>. These situations are far removed from the very

real pressure felt by a mother struggling to meet the hygiene needs of an incontinent, disabled child.

1.5 The need for such a provision is particularly pressing given that **families do not currently appear to be receiving an appropriate proportion of the Scottish welfare fund** – despite the fact they are repeatedly referred to as eligible in the interim SWF Guidance. The annual SWF figures for 13/14 show that 20% of those applying for a community care grant are categorised as being a family under exceptional pressure<sup>iv</sup>. This compares with UK social fund figures for 12/13 which show that 53.6% of CCG budget was spent on families experiencing exceptional pressure<sup>v</sup>. Absence of a provision relating to eligibility for this group in the Bill is likely to result in the rate of awards falling even further.

1.6 Statistics also suggest that families are under-represented amongst all categories of CCG claimant. Figures for the last available quarter show that only 19% of households receiving community care grants were in receipt of child benefit. Given the high take up rate of child benefit this strongly suggests that families with children are struggling to access CCGs<sup>vi</sup>.

## **2) Outsourcing to third parties**

2.1 Section 3(1) of the Bill currently states that “*A local authority may make arrangements for another person to administer its welfare fund on its behalf.*” CPAG in Scotland believe administration of the welfare fund should be a function of government – not that of a private company or even third sector organisation. While we appreciate that it might be helpful for third parties to have a role in supplying or delivering goods awarded under the scheme, we do not believe they should have a place processing applications or making decisions.

2.2 CPAG believe that allowing third parties to administer the fund is likely to affect the quality of decision making, undermine public confidence in the scheme and put the accountability and transparency of the fund at risk. Indeed, applicants to the Scottish welfare fund should be aware that they are entitled to make an application to the fund, that the decision-maker is subject to the principles of administrative law and that any decision made can be subjected to review. Third party delivery risks creating a perception that an award made under the scheme is an act of charity, rather than the exercise of a legitimate right.

## **3) The potential to provide grants instead of loans**

3.1 Section 5(2)(f) of the Bill would give Scottish Ministers the power to pass regulations “*about circumstances in which amounts may require to be repaid or recovered in respect of assistance which has been so provided.*”

3.2 CPAG in Scotland is aware that this provision was drafted to ensure that local authorities could pursue and recover awards which had been fraudulently obtained. However, this is not apparent from the provision as currently drafted and there is a risk that the power could be used in the future to require repayment of awards, effectively creating a system of loans instead of grants. This is something which must be avoided at all costs given that the need to repay awards often leads to further debt and hardship for already vulnerable, low income families. CPAG therefore believe section 5(2)(f) should be clarified and furthermore, the Bill should be amended to include a provision stating that where an award is made under the scheme no repayment of awards can be required.

## **4) Concerns about gatekeeping**

4.1 The Welfare Funds (Scotland) Bill does not address concerns that some individuals who might be eligible for an award from the Scottish welfare fund are being discouraged from putting in a formal application. While we do not believe that local authorities are intentionally

rejecting applications from eligible clients in need, there is a concern that some applicants are being dissuaded from making applications because local authority staff make a premature judgement about the individual's likely eligibility and put her/him off making a claim.

4.2 This prevents a full consideration of the applicant's circumstances and denies them a right of review of any subsequent decision. CPAG continues to come across numerous cases which suggest that many people are being turned away before they make a grant application. The following case illustrates our concerns:

*An extremely vulnerable client (who had multiple disabilities and was illiterate) did not realise that his contribution based ESA would end after 12 months. The DWP notified him of this but did not send him the form which would allow him to make a claim for income related ESA. The client applied for a short term benefits advance (STBA) from the DWP but was refused on the basis that he did not count as a new claimant. The local authority repeatedly refused to take application to the welfare fund because they saw it as the DWPs fault for not sending right form (ESA3). The client had to access food bank in the interim.*

4.3 One way of overcoming this problem would be by giving the Scottish Government the power to require local authorities to keep a record of all those inquiries relating to the Scottish welfare fund which do not progress to the point of application along with the reason for non-continuation of the application. This need not be a time consuming or resource intensive process but it would allow for accurate information to be gathered showing which groups are not making applications despite initiating inquiries. It would also encourage local authority officers to be more conscious of the procedure they follow and manner in which they deal with initial inquiries.

4.4 We also believe the Scottish Government should have the power to require local authorities to record information on the 'vulnerabilities' of applicants. This is necessary to ensure that all factors relevant to each application are being taken into account. The latest statistics released in relation to the fund indicate that only one in four applicants had vulnerabilities of any kind<sup>vii</sup>. CPAG are concerned that this is unfeasibly low and may reflect poor practice in recording information, particularly given that the list of vulnerabilities is extensive, including experiencing redundancy, experiencing an unsettled way of life, being pregnant, having recently given birth, being a lone parent, having three or more children, having a chronic illness, disability or mental health impairment amongst many others.

**For more information please contact:**

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<sup>i</sup> <http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/84508.aspx#d> Para 7

<sup>ii</sup> <http://webarchive.nationalarchives.gov.uk/20130703092741/http://www.dwp.gov.uk/docs/social-fund-guide.pdf%20>

<sup>iii</sup> Section 2(2) Welfare Funds (Scotland) Bill

<sup>iv</sup> <http://www.scotland.gov.uk/Resource/0045/00456028.pdf>

<sup>v</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/209379/DWP\\_Annual\\_Report\\_on\\_the\\_Social\\_fund.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/209379/DWP_Annual_Report_on_the_Social_fund.pdf)

<sup>vi</sup> See table 45b, page 80 <http://www.scotland.gov.uk/Topics/Statistics/Browse/Social-Welfare/swf/SWF30Jun2014>

