CARERS (SCOTLAND) BILL
WRITTEN SUBMISSION FROM COSLA

Introduction
1. COSLA welcomes the opportunity to provide written evidence to the Finance Committee on the Carers (Scotland) Bill Financial Memorandum. COSLA’s submission does not follow specifically the questionnaire attached to the Committee’s call for evidence, but instead focuses on a number of key concerns which need to be drawn to the Committee’s attention. The submission explains why these concerns are critical for local government and why they should be a key focus of the Committee’s interrogation. However in presenting these concerns the Committee will hopefully be satisfied that COSLA has also sought to cover the areas of interest set out in the call for evidence.

Key messages
- COSLA remains unconvinced as to the need for legislation on supporting carers, however we will work constructively to influence the shape of the new Bill.
- COSLA has doubts about the assumptions made in the Financial Memorandum over the cost and demand over time for the new carer duties, though we acknowledge that this is new territory and estimating costs and demand is difficult.
- The risk however is that the costs may be significantly underestimated and the demand wrongly profiled which, in turn, will mean that inadequate funding will be provided to councils to deliver the new duties.
- COSLA is concerned over the financial risk which may then result for councils and carers, if the assumptions on cost and demand differ widely from actual experience.
- COSLA is therefore calling for meaningful agreement on risk-sharing to be put in place with the Scottish Government.
- Critically COSLA is calling for proper recognition to be given to jointly monitoring the actual financial impact of the new duties on councils, which will ensure that the levels of funding are re-visited in light of the actual position.

The Carers Bill
2. Before drawing the key concerns which COSLA has with the Financial Memorandum, it is worth saying a little bit about COSLA’s position in regard to the Carers Bill itself. This will be further drawn out in COSLA’s submission to the Health and Sport Committee as the lead Committee, however COSLA is keen that the Finance Committee also has a feel for where local government is positioned on this.

3. The Committee will be aware that the Scottish Government consulted on proposals for a Carers Bill during the summer of 2014. At that time COSLA was concerned that many of the Scottish Government’s legislative proposals were
impractical and would make it more difficult to support carers flexibly into the future. In particular it was felt that this went against a policy drive by local government and community planning partners to focus more on innovation, capacity-building and co-production across the care sector.

4. COSLA was of a view that a sufficient enough case for moving to legislation had not been made and that this was not the preferred direction of travel. However it was clear that Scottish Government remained committed to moving to legislation and, under these circumstances, COSLA should work constructively through the parliamentary process to influence the shape of any new Bill.

The Financial Memorandum

5. In providing comment on the Financial Memorandum, the Committee should be aware that COSLA sought to work with the Scottish Government to understand their approach to costing the provisions to be contained in the Bill. COSLA remains concerned however that assumptions made in the FM are not substantiated. In particular COSLA would question the assumption on uptake that, as 44% of carers feel supported, the logic of this is that growth will be low and slow. This is critical as assumptions about carer behaviour will determine the levels of cost and hence funding which the Scottish Government is willing to provide to local government in the early years of the new duties being in place.

6. There are a number of provisions with financial implications contained in the FM which affect local government. There are however two key cost areas which COSLA would specifically like to draw the Committee's attention to in the Financial Memorandum, these being the duty to prepare Adult Carer Support Plans and the duty to support carers. These are significant new duties on local government and are considered first, in the order of concern for local government.

Adult Carer Support Plans

7. The duty to prepare the adult and carer support plan (ACSP) for adult carers is a significant new duty for local government. To a lesser extent the same applies for the young carer statement (YCS), however in terms of cost it is the assumptions in the FM around ACSPs which are most concerning. There are three areas of concern to be considered:
   i. Unit cost of assessment.
   ii. Speed at which carers will come forward for assessment.
   iii. Total number of carers that will come forward for assessment.

Unit cost of assessment

8. The FM profiles three options for the unit cost of assessment, Unit Costs of £72, £110 and £176, giving total costs (by 2021-22) of £7.7m, £11.8m or £18.9m (FM pg 40, Table 1). It makes no clear recommendation however about which unit cost is thought to be the most accurate. COSLA has concerns about the representation of these unit costs as alternative options as these could lead to a presumption that the lower unit costs are realistic. Given that the FM itself describes the £176 as the average unit cost, it is COSLA's view that, in presenting a range of unit costs in the FM with £176 at the top of the range, this is misleading. Whilst more than one interpretation of the evidence is
understandable, COSLA nonetheless believes that £176 best represents the evidence on the cost to local authorities and that no alternative to this should be presented in the FM.

9. COSLA therefore urges the Committee to press the Scottish Government to recognise, on the basis of evidence from Scottish councils, the unacceptability of placing an average unit cost (£176) at the top level of its estimates. Furthermore COSLA urges the Committee to press the case that resources should be provided at a realistic level that recognises councils’ capacity to deliver the new duties.

**Speed at which carers come forward**

10. The uptake of Adult Carer Support Plans (ACSPs) is profiled in the FM as being low and slow, taking a period of 6 years to build from the current estimated level of 3% of Scotland's 745,000 carers to 34% by year 5 (FM para 56). It is COSLA’s view that there is no evidence presented to support the year-on-year increases profiled in Table 1 regarding the speed at which carers will come forward for assessment (FM paras 55-56). Instead broad assumptions are made about carer behaviour based on the Scottish Health Care Experience Survey, such as that 44% of carers currently feel supported and that many carers will continue to be assessed through other routes (community care assessment/disabled child’s assessment). With regard to those carers feeling supported for example, COSLA would argue that, firstly people’s needs change, both carer and cared for, over time and, secondly, an improved offer of new entitlements may encourage many of those who currently feel supported to seek further support.

11. Whilst councils have indicated that further consultation is needed locally to estimate likely patterns of demand, the broad view from councils is that the duty to provide the ACSP, along with the removal of the ‘regular and substantial test’, will lead to an increase in uptake well above the estimates provided in the FM. One council at least has indicated that 53% of their carer population will come forward and that this will happen far more quickly than the FM is presuming. The FM seems to back this up at para 39 when, from the results of the local authority survey, it states that 10 councils thought that demand would increase immediately whilst 6 felt this would happen at a later date. In other words 16 of 17 councils believe that demand will increase, with 10 believing that this will happen immediately after the Bill is enacted.

12. The slow uptake estimated in the FM would also seem to run counter to previous experience of uptake rates for new universal entitlements. With take up of Free Personal Care, for instance, growth was closer to 30% of the eligible population over the first 3 years of the new policy coming into place, compared with 16% over 5 years for take up of ACSPs estimated in the FM. The impact of getting these estimates wrong are that the costs will be significantly higher and, without sufficient funding, councils will struggle to meet demand with the outcome being either that we see waiting times for assessment worsening, or councils having to tighten eligibility thresholds and withdraw support from other client groups in order to meet this new duty.
Total number of carers coming forward
13. With regard to the total number of carers that will come forward for assessment (FM para 56), the FM argues that demand will peak at 34% of the caring population by 2021-22, taking into account turnover and renewals, basing this on the fact that 44% of carers report they currently feel supported. However, there is no evidence presented to support the assumption that few of those carers will come forward for support as a result of the new universal entitlement to an ACSP. In particular there seems to be little recognition of the impact on demand arising from the associated perception of an improved offer that could result from awareness-raising activity accompanying the Bill. The legislative intention has been very positively received by carer’s organisations and is being well publicised. As indicated above at least one council is estimating a 53% uptake from their carer population.

14. As an example of the lack of evidence, COSLA would question the presumption in the FM at para 41 that the removal of the regular and substantial test will not lead to large numbers of carers requesting an ACSP. The presumption is that, as half of the councils who responded in the survey said that they were not using the test, then its removal will not lead to a large increase in demand. It is illogical to state that because a number is unknown (the number of carers who did not meet the test), then this suggests the number is small.

15. COSLA would also counter the presumption in the FM that, as some carers have previously declined the offer of a carer’s assessment, then only a few of these carers would come forward for an ACSP. The whole intention of the Bill is to remove any perception of stigma or other factors which prevent carers coming forward and, together with the workforce development measures proposed at paras 107-110 in the FM, this would suggest that those who have not come forward before may feel encouraged to do so now.

16. Additionally demographic change is increasing the carer population, with the complexity of needs changing, meaning there will be more carers in future years, undertaking more hours of care, making it likely that a greater number of carers than estimated will come forward in the future. For example, census data from 2001 and 2011 show an increase in the number of hours carers are having to care for, particularly those caring for 35-50hrs per week and 50hrs+ per week. The estimates presented in the financial memorandum are not adjusted for this projected growth in the population and caring burden and therefore represent an underestimate of demand.

Duty to support carers
17. The FM assumes that the proportion of carers assessed who are also eligible for support will be 60% for adults (and 69% for young people) by 2021-22 (FM para 79). It uses a figure of £333 per carer, per annum, to arrive at a total cost for improving support to carers of £51.2m (adult carers) and £6.5m (young carers) respectively by 2021-22. There are two main issues with the assumptions in the FM in relation to the duty to support carers: firstly, in relation to the proportion of the caring population who are estimated as being eligible for support; and secondly, in relation to the overall resource identified and expectations about the support this can be expected to secure.
18. With regard to the proportion of carers requiring support, little in the way of justification is given in the FM for the estimate of 21% of adult carers and 40% of young carers being eligible for targeted or bespoke support. It is unclear, for instance, from the FM whether 40% and 21% are the percentages of those carers who come forward for assessment or of the total carer population? If it’s the former, then the actual number of people will be higher than indicated in the FM and the budget won’t ‘stretch’ as far as £333 per head. Depending on where councils set their eligibility criteria it could be higher or lower. If it is higher, again the ‘budget’ won’t stretch as far and councils will be forced to tighten eligibility criteria even further, whilst having to deal with carers who have an expectation of an improved offer of support at the level estimated in the FM.

19. With regard to resource, the figure of £333, which only amounts to a few days support each year, should only be viewed as a component used to arrive at an overall costing. This cannot be seen as an actual entitlement as the actual cost will vary depending on the nature of support provided, which is entirely driven by the eligibility criteria determined locally. There is a very real risk that carers will nonetheless perceive this as an entitlement. The FM indicates that the eligibility criteria will be locally determined but that local authorities must have regard to overlaying regulations. Given the increased awareness, should carers come forward more quickly or in greater numbers than anticipated, the total budget would not support allocations at that level and councils would not be able to meet these increased expectations.

20. It is worth also stating that there is a tension between the two duties insofar as the Bill will establish a universal entitlement to assessment through the provision of ACSPs, whilst at the same time councils will need to manage demand for direct support to carers in light of the funding available for this. Within the context of a finite resource being made available under the Carers Bill, there is the concern therefore that resources which could have been available for direct support are instead required to be diverted to assessment.

21. The risk is that, with expectations ramped up on an improved offer of support, councils could find themselves pressurized by regulation to meet these expectations, especially if there is a significant diversion of resources to meet demand for ACSPs. With councils’ ability to tighten eligibility criteria for direct support becoming increasingly constrained, this could in turn put pressure on council budgets if the demand is significantly greater than forecast.

Conclusion on the key cost and demand areas included in the FM

22. COSLA recognises that estimating demand and the associated costs of a new policy which is largely entering unknown territory is difficult. COSLA’s concern with the FM is that many of the assumptions are untested and un-evidenced. Ideally the Scottish Government could have allowed more time to bring forward the Carers Bill and the associated financial memorandum. The risk is that, as things stand with the FM, this gives a potentially false impression of the likely trajectory once the Bill is enacted and the carer community becomes more aware of the provisions. This has implications for councils in planning for the new duties
and also risks creating a credibility gap at the outset of the introduction of significant new duties.

23. COSLA therefore calls on the Scottish Government to work jointly to develop a better understanding of the likely cost and demand implications of the provisions contained in the FM. With a better understanding in place, COSLA seeks a commitment from the Scottish Government for a meaningful agreement on risk-sharing to be put in place which identifies realistic funding for councils to provide the new duties from the outset. The Government and COSLA should then jointly work to actively monitor the actual pattern of demand and scale of costs to councils, with a commitment to increasing the levels of funding during the course of each of year following the commencement of the new duties.

Other provisions in the Bill with financial implications

24. The first part of COSLA’s submission has focussed on two key cost and demand areas contained in the carers Bill FM. There are a number of other areas in the FM, where there are financial implications for local government albeit to a lesser degree. The one area on which COSLA would like to comment is with regard to the costings for local carer strategies. The FM includes £0.32m set up costs and £0.16m recurring costs for preparation of local carer strategies. This presumes that the preparation of strategies is an extension of existing local strategies and hence will be covered by existing staff.

25. In order to develop robust strategies, with proper consultation, COSLA argues that more resource is required. A number of councils have indicated that they would require at least an additional staffing resource to prepare local carer strategies, citing the fact that these are more formalised and require far more extensive consultation with the caring community.

COSLA
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