Introduction
1. COSLA is the representative body for all 32 Councils in Scotland. Local authorities are responsible for securing social care and support (e.g. housing, day care services etc) in the community and providing mainstream services to support recovery for people with mental health problems. A key role is played by mental health officers (MHOs), who are social workers with additional training, employed by local authorities. The Bill introduces some additional statutory duties on local authority MHOs, and these extra duties are reflected in the FM.

2. COSLA welcomes the opportunity to provide written evidence to the Finance Committee on the Financial Memorandum produced for the Mental Health (Scotland) Bill (‘the Bill’). We are aware that Social Work Scotland (formerly the Association of Directors of Social Work (ADSW)), and some individual councils, responded to the consultation on the Bill to highlight some issues of technical or professional import, but expressing general support for the broad policy direction proposed overall. COSLA would generally concur with these positions and so have focused on issues of political or financial impact for our members.

3. Having considered the final draft Bill and supporting documents, including the Financial Memorandum (FM), we believe that the exact scope of new duties, and resulting financial implications, need to be clarified. Specifically, there is a discrepancy between scope of MHO duties set out in the Bill explanatory notes, versus in the financial memorandum. This has a resulting impact on work to estimate the costs to Councils that will arise from the Bill. Further detail is provided in the ‘Resource Implications’ section of our response below.

Policy context
4. Our initial perspective is that many of the proposed duties and responsibilities are welcome in the interests of good practice, strengthening and extending existing safeguarding functions, and improving assessment options for individual councils and professional associations.

5. However, the introduction of new statutory duties on local authority MHOs to prepare reports for a tribunal hearing places another burden on an already overstretched and limited resource. There is a risk that proposals to require these reports, while welcome in policy terms, will result in an increased burden on local authorities.

6. The Bill proposals in relation to additional duties on Mental Health Officers (MHOs) are not clear, and as a result, nor are the financial implications. Specifically, the Bill explanatory notes (page 5, paragraph 13) suggest that an MHO report will be required in any of three different circumstances – where there is a change of diagnosis, where the MHO disagrees with the determination, or when the tribunal has not the compulsory treatment order within a certain timeframe. However the financial memorandum (page 34, paragraph 32) suggests a report will only be required in one of those circumstances – where the MHO disagrees with the determination.

7. These discrepancies require to be resolved before the financial implications of the Bill proposals can be properly considered. COSLA will undertake further work to attempt
to determine the potential impact of the different proposals on Councils’ finances; however, this will require additional work and COSLA is therefore seeking further time in the parliamentary process for this Bill to allow for this.

**Resource requirements**

8. Despite a degree of comfort with the policy proposals, the introduction of new statutory duties on local authority Mental Health Officers (MHOs) to prepare a report for a tribunal hearing places another burden on an already overstretched and limited resource. There is a risk that proposals to require these reports, while welcome in policy terms, will result in an increased burden on local authorities. COSLA is of the view that this extra burden and financial cost for local authorities is not adequately reflected in the FM.

9. The FM published with the Bill estimates 20 such reports across the whole of Scotland, at a cost of £475 each, giving an additional cost of £9500 per annum (we would highlight that the FM erroneously gives the total cost as £9000). The estimated cost of £475 per report was verified by the then ADSW. However, the number of such reports is challenged by Social Work Scotland: by drawing on figures from the Mental Welfare Commission for 2012/13, SWS estimates that this new duty will result in an additional 1789 reports per annum. Working out potential costs for all Councils from a top down approach, and using the unit cost for a report of £475, the 1789 reports would amount to an additional cost to local authorities of approximately £850k per annum.

10. In considering the Social Work Scotland estimates further, it has become apparent that the Bill documentation itself is not clear on the scope of the new duties that are proposed and estimates may need to be revisited. However, given the disparity between the scope of duties considered by the FM, and those described in the Bill explanatory notes, the FM clearly substantially underestimates the costs associated with this new statutory duty, along with the workload implications for MHOs.

11. Initial estimates based on a bottom up approach have produced figures from a limited return from 12 Councils, but shows that the majority of Councils are anticipating the need for extra MHO resource, averaging £45k per local authority; however, these estimates may change once the scope of the duties is clearer and we have a more comprehensive picture across Scotland. Even in the absence of clarification on the extent of the Bill, it is clear that the Financial Memorandum significantly underestimates the costs that will be incurred, along with the workload implications for MHOs.

12. Although many aspects of the Bill are to be welcomed, the introduction of new statutory duties on local authority MHOs places a significant burden on a workforce which is already reporting capacity problems. Therefore, a more comprehensive review of MHO services is necessary to ensure that local authorities are sufficiently resourced to enable them to fulfil their statutory functions.

**Summary**

13. Although many of the policy intentions contained in the Bill are broadly welcomed, there is concern about the burden these will place on an already overstretched and limited resource. COSLA is concerned that the scope of new duties on MHOs is unclear at this stage. However, that point notwithstanding, it is clear that the additional cost set out in the FM is an underestimation of the costs associated with the measures described in the Bill explanatory notes. COSLA will undertake further work to attempt to determine the potential impact of the different proposals on Councils’ finances; however, this will require additional work and Councils will need time to estimate the additional costs they will incur.
14. Given that the introduction of the new statutory duties on local authority MHOs places a significant burden on a workforce which is already reporting capacity problems, COSLA is requesting a more comprehensive review of MHO services. This is to ensure that local authorities are sufficiently resourced to enable them to fulfil their statutory functions.

15. COSLA hopes these comments will be useful in the Finance Committee’s deliberations on the Financial Memorandum for the Bill. If you require any further information or clarification please contact Andy Witty, Policy Manager, COSLA on 0131 474 9312 or andy.witty@cosla.gov.uk