Mental Health (Scotland) Bill: Financial Memorandum

Dear Duncan,

The deadline for the Finance Committee’s call for evidence on the Mental Health (Scotland) Bill’s Financial Memorandum passed recently and a total of 14 responses were received. These are available on the Committee’s web page via the following link: http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/79985.aspx.

A number of respondents drew attention to the potential impact of the Bill on Mental Health Officers and the related financial implications for local authorities.

These concerns were summarised in supplementary written evidence submitted by COSLA which suggested that there were discrepancies between the Explanatory Notes and Financial Memorandum—

“Specifically, the Bill explanatory notes (page 5, paragraph 13) which deal with section 2 of the Bill regarding hearings relating to compulsory treatment orders, 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 [received] 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. It estimates this to occur in about 20 cases per year, and goes on to give estimates of costs based on that incorrect narrower scope.”
The same discrepancy exists in respect of section 41 of the Bill, which would introduce a requirement for an MHO report in relation to compulsion or compulsion and restriction order hearings. The FM estimates these to be ‘less than 20’ per annum. Again, the financial memorandum estimates are based on a narrower set of duties than described within the Bill.”

Aberdeen City Council made the same point, stating—

“The Bill does have financial implications for our organisation which have not been accurately reflected in the Financial Memorandum. Reports under S87A and S153A – the FM refers only to S101 (2) (a) and S165 (2) (a) whereas it is clear from the Bill that S101 (2) (b) and S165 (2) (b) are also included. This has a significant impact on the estimated number of reports which will be required – instead of 20 it will be more like 600 across Scotland in any given year.”

COSLA’s supplementary submission suggested that the total number of hearings requiring a report could be in the region of 593 as opposed to between 20 and 40 as stated in the FM. As the FM estimates a cost of £475 per report this suggests an overall annual cost to local authorities of over £281,000 instead of the £18,000 noted in the FM.

However, COSLA also suggested that the estimated cost of £475 per report does not take full consideration of the potential for additional costs including those relating to travel, the differential complexity of cases and year-on-year fluctuations.

COSLA and a number of other respondents also sought clarity as to who would be expected to bear the costs of a MHO having to visit a prisoner as a result of the Bill (i.e. would the costs fall on the prisoner’s “home” local authority area or that in which the prison was located?).

In conclusion, COSLA stated that it has “significant concerns” about the increased workload for MHOs and the apparent discrepancies between the accompanying documents regarding the scope of new MHO duties. COSLA therefore recommended that “the resulting financial burdens on local authorities must be properly understood and funded in full by the Scottish Government.”

Your committee may wish to consider the above information along with the attached submissions in its evidence session with the Minster in charge of the Bill.

Yours sincerely

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Convener