Royal College of Speech and Language Therapists

Health (Tobacco, Nicotine etc. and Care) (Scotland) Bill

Stage 2 Amendment on the provision of voice equipment: Call for Views

RCSLT are members of the “AAC Collaborative” who have separately submitted comments to the committee on above.

The amendments (to the Scottish Governments Stage 2 amendments) suggested in this submission reflect the views expressed by the collaborative.

RCSLT have suggested a lot of amendments to the Scottish Government amendments. We do this in the spirit of trying to be as helpful as possible by presenting Scottish Government and Parliament with a comprehensive range of suggestions to strengthen the very welcome introduction of legislation focusing on provision of communication equipment and support to some of Scotland’s most vulnerable and excluded people.

RCSLT have also provided a “Keeling Schedule” which shows how legislation could look were all our suggested amendments adopted. We hope this might be helpful to members of the committee.

New Part: Provision of Communication Equipment

Amendments No.1 — Amendment to change title of new Part 46A (‘Provision of Communication Equipment’) in the National Health Service (Scotland) Act 1978 to include specific reference to ‘support’

As an amendment to Amendment 1 in the name of Maureen Watt MSP, in the title after (“EQUIPMENT”) insert (“AND SUPPORT”)

Amendments No.2 — Amendment to change first heading in new Part 46A (‘Provision of Communication Equipment’) in the National Health Service (Scotland) Act 1978 to include specific reference to ‘support’

As an amendment to Amendment 1 in the name of Maureen Watt MSP, in the heading (“Duty to provide or secure communication equipment”) after (“equipment”) insert (“and support”)

Amendments No.3 — Amendment to change sub-heading in new Part 46A (‘Provision of Communication Equipment’) in the National Health Service (Scotland) Act 1978 to include specific reference to ‘support’

As an amendment to Amendment 1 in the name of Maureen Watt MSP, in the sub-heading (“Provision of communication equipment”) after (“equipment”) insert (“and support”)

Effect

These amendments are necessary to highlight that the duty on the Scottish Ministers is to provide, or to secure the provision of, communication
equipment and support. The Bill, as currently drafted, only refers to ‘equipment’ in the title of the new Part, and in the heading and sub-heading of Section 46A introduced by the Minister of Public Health’s Amendment.

**Reason**

People can only benefit from the provision of communication equipment if they are also given support to be assessed for that equipment; support in selecting the equipment that best meets those needs from the vast array on the ever developing market; they are given therapy and learning opportunities on how to use the equipment; their equipment is programmed to say and do what they want to “say” (e.g. names of people, places, vocabulary and phrases of importance to them); people they live, work and learn with are trained how they can best support the individuals communication etc. etc.

In a nutshell – communication equipment is not useful to individuals unless it comes with communication support services. This amendment recognises and emphasises these inextricable needs to all concerned with the implementation of the Bill.

The Royal College of Speech and Language Therapists (“RCSLT”) believes it is necessary to highlight in the title, headings and sub-heading to new Section 46A of the National Health Service (Scotland) Act 1978 (“the 1978 Act”) that the Bill places a duty on the Scottish Ministers to provide support, as well as communication equipment. These amendments will help to ensure that persons requiring communication equipment and support receive this equipment and support.

If Amendments Nos. 1 - 3 are accepted, consequential amendments will have to be made to the amendments below, as appropriate, to strengthen the emphasis in the New Part that the Scottish Ministers are under a duty to provide, or to secure the provision of, communication equipment, and support in using that equipment.
Amendment No.4 – Duty on Scottish Ministers to consider general principles

After Section 31, Page 22, line 17, insert-

**Duty to consider general principles**

Before new Section 46A ("Duty to provide or secure communication equipment and support") in new Part ("Provision of Communication Equipment and Support") of the National Health Service (Scotland) Act 1978 insert the following new section-

("46AA) General principles

(1) The Scottish Ministers must have regard to the principles in subsections (2) to (5) in carrying out their functions under Part ("Provision of Communication Equipment and Support") of the 1978 Act.

(2) A person who wishes to be provided with communication equipment, and with support, under Section 46A of the 1978 Act must have as much involvement as the person wishes in relation to decisions about—

(a) the assessment of the person’s needs for communication equipment;

(b) the selection of appropriate communication equipment;

(c) the use of that equipment throughout their daily life;

(d) the training of relevant staff and carers to support the person in using that equipment;

(e) the integration of communication equipment with daily living controls and with modern communication channels including digital communications media; and

(f) the review and replacement of communication equipment.

(3) A person must be provided with any assistance that is reasonably required to enable the person—

(a) to express any views the person may have about the options for communication equipment, and about support, provided under Section 46A of the 1978 Act; and

(b) to make an informed choice when choosing an option for communication equipment, and support provided under Section 46A of the 1978 Act.

(4) The Scottish Ministers must collaborate with a person in relation to—

(a) the assessment of the person’s needs for communication equipment; and
(b) the provision of support for the person

(5) The Scottish Ministers must, in complying with their duties under Section 46A of the 1978 Act, ensure that any communication equipment, and any support, required is provided to the person as a matter of urgency.

Effect

This amendment will ensure that the Scottish Ministers must, in carrying out their functions to provide or to secure the provision of communication equipment and support, have regard to certain general principles. These include involving persons requiring communication equipment and support in decisions about that equipment and support, and to provide the person with any support they may require to enable them to express their views, or to make informed decisions about such equipment and support. The Scottish Ministers are also required to collaborate with the person in assessing their communication support needs. In addition, the Scottish Minister must provide the communication equipment and support to the person as a matter of urgency.

Reason

The Royal College of Speech and Language Therapists ("the RCSLT") welcome the First Minister’s personal commitment to ensuring, as a matter of urgency, that: “... equipment ..., which is a lifeline for many people who have lost their voice through conditions like MND, is available routinely on the NHS”. We also unreservedly support and share the First Minister’s commitment to promote equality and independence for people with communication support needs and to protect their human rights, and to ensure they are treated with dignity and respect in all aspects of their lives.

Against this background, RCSLT further welcomes the Scottish Government’s decision to lodge Amendment No.1 to the Health (Tobacco, Nicotine etc. and Care)(Scotland) Bill. This amendment, in the name of the Minister for Public Health, Maureen Watt MSP, will place a duty on the Scottish Ministers to meet all reasonable requirements to provide, or to secure the provision of, communication equipment and support in using that equipment to any person who has lost their voice, or has difficulty speaking. The RCSLT, however, while welcoming the Scottish Government’s proposal to ensure the availability of such equipment and support, believes that further action is necessary to maximise the benefits for people with communication support needs.

The RCSLT is seeking support for our amendment, which would require the Scottish Ministers to have regard to certain general principles when providing communication equipment and support under Section 46A of the National Health Service (Scotland) Act 1978 (“the 1978 Act”).

These general principles would include the need to involve persons requiring communication equipment and support in decisions about that equipment and support, and to provide the person with any support they may require to enable them to express their views, or to make informed decisions about such
equipment and support. The Scottish Ministers would also be required to collaborate with the person in assessing their communication support needs. The application of these principles would help to empower those persons requiring such support. They would ensure, for example, that the Scottish Ministers consult, and co-operate, with those persons in providing or securing the provision of communication equipment and related support. This, in turn, will give persons requiring communication and support a greater say in what type of equipment and support they receive, and improve the chances that it will meet their needs.

Another significant aspect of these general principles is that the Scottish Ministers would be under a duty to provide the communication equipment and support to the person as a matter of urgency. This is a key factor, given the progressive decline in a person’s communication capacity associated with illnesses such as MND.

The inability to communicate effectively, even for a short period, is distressing for the individual, for their family members and for their carers. It is excluding and isolating. Any wait for communication equipment and support to overcome that difficulty must, therefore, be minimised by ensuring the communication equipment and support are provided as a matter of urgency.

This amendment would provide that the progressive nature of such illnesses, and their impact in increasing people’s communication needs, are recognised on the face of the Bill. In effect, the amendment would require the Scottish Ministers to provide communication equipment and support to a person as a matter of urgency to try and address any changes in the person’s communication needs associated with the progressive nature of their illness.
Amendment No.5 – Duty on Scottish Ministers to consider further general principles

After Section 31, Page 22, line 17, insert-

(Duty to consider further general principles applicable to this Part

Before new Section 46A (‘Duty to provide or secure communication equipment and support’) in new Part (‘Provision of Communication Equipment and Support’) of the National Health Service (Scotland) Act 1978 insert the following new section-

(“46AB) Further general principles

The Scottish Ministers must, in carrying out their functions under this Part in relation to a person who requires communication equipment and support under Section 46A of the 1978 Act, take reasonable steps to facilitate the following general principles—

(a) that ensuring maintenance of the person’s capacity to communicate is recognised as being as equally important as the need to maintain their physical health;

(b) that any communication equipment and support provided meets all the person’s communication support needs, including any changes in those needs;

(c) that any communication equipment and support is provided on an equitable basis, regardless of the person’s age, of where they live and of the reasons why they need the communication equipment and support in using that equipment;

(d) that the right to dignity of the person is to be respected; and

(e) that the person’s rights to participate in the life of the community in which the person lives, and to live independently, are to be respected.

Effect

This amendment will ensure that the Scottish Ministers must, in carrying out their functions to provide or to secure the provision of communication equipment and support, have regard to certain other further principles. These include recognising that maintaining the person’s capacity to communicate is as equally important as maintaining their physical health, and that any communication equipment and support provided to meet a person’s communication needs, pertains to all their communication support needs in all circumstances and includes any changes in those needs. The principles also require that communication equipment and support is provided on an equitable basis, and that the person’s dignity and their right to participate in their community and to live independently are respected.
Reason

The primary motivation of speech and language therapy and therapists (SLTs) is to do everything possible to ensure anyone with a communication support need – of whatever age and underlying cause – is enabled to communicate in the way they wish, as easily as possible, to the best of their ability every day, everywhere for all of their life.

People with communication support needs with experience of using communication equipment report that their communication device has sometime been withdrawn, for example during acute illness or when not convenient in a particular setting or activity. The reason for this being that their need to communicate is apparently considered of secondary importance during these times. RCSLT, and people who rely on communication support everyday, all day, consider that even when people are acutely ill it must not be okay for anyone to say to people that enabling communication by the individual is not important. We are, therefore, seeking support for this amendment, which would require the Scottish Ministers to recognise further general principles, when providing communication equipment and support under Section 46A of the National Health Service (Scotland) Act 1978 (“the 1978 Act”). These principles would include recognising that maintaining a person’s capacity to communicate is as equally important as maintaining their physical health, and that any communication equipment and support provided must meet the person’s communication needs.

The principles introduced by this amendment would require the Scottish Ministers to take a rights based approach to the provision of communication equipment and support. These principles would, for example, require the Scottish Ministers to ensure that the person’s dignity and their right to participate in their community and to live independently are all respected. The RCSLT believe this approach will help to provide that those requiring communication equipment and support under Section 46A of the 1978 Act are treated as equal partners by the Scottish Ministers, and by service providers, in decision making around the design and delivery of such assistance. This, in turn, will help to ensure that the equipment and support provided are best equipped to meet the person’s communication and care needs.

The RCSLT consider that this amendment and our amendment [number 4 above - tbc – once we know numbers on marshalled list], by introducing a series of overarching principles, would require the Scottish Ministers to take a person centered approach to providing communication equipment and support under Section 46A of the 1978 Act. In this respect, the principles would require that communication equipment and support are provided on an equitable basis, regardless of the person’s age, of where they live and of the reasons why they need the communication equipment and support in using that equipment. Significantly, the principles would also ensure that the provision of such equipment and support are tailored to meet any changes in the person’s communication and care needs. This is vital given the increase in a person’s communication and needs associated with the progression of the illness.
Amendment No.6 – Duty to provide software, access to voice bank and other accessories as appropriate

As an amendment to Amendment 1 in the name of Maureen Watt MSP, in paragraph (a) after (“communication equipment,”) insert (“associated software, access to a voice bank and other accessories as appropriate”)

Effect

This amendment would require the Scottish Ministers to provide communication equipment, and associated software, access to a voice bank and access to other accessories as appropriate.

Reason

Communication equipment, such as that used by Professor Steven Hawking, requires software in order to programme it to meet an individual’s needs. This software can require updating regularly.

Some people can choose to have their own voice recorded (before it deteriorates) and later used as their voice on voice output equipment. This is known as “voice banking”. Alternative synthesised voices – using voices gathered from people with similar demographic characteristics – may also be available to individuals in Scotland in the future. Scottish Government is currently supporting research (led by the Euan MacDonald Centre, Edinburgh) which aims to test and spread the use of “Voice banking” across Scotland.

To use communication equipment an individual needs to select a message by any number of innovative means – for example by pressing a switch or touching a picture or using switches which track eye gaze. The switch access to operate communication equipment must be tailored to an individual’s ability to physically move.

Communication equipment needs to be positioned where a person can use it, for example on their wheelchair, on their bed or on their computer table. Positioning requires mounting systems. Other essential associated accessories include carrying equipment, recharge facilities etc.

New Section 46A of the National Health Service (Scotland) Act 1978, introduced by Maureen Watt MSP’s, the Minister for Public Health’s amendment, will require the Scottish Ministers to provide, or to secure the provision of, communication equipment and support in using that equipment to any person who has lost their voice, or has difficulty speaking. The RCSLT’s amendment will provide that the person receiving the communication equipment also receives the associated software, access to a voice bank and other accessories as appropriate. This will help to ensure that the person is able to use the communication equipment efficiently and effectively, and is able to maximise the capacity of the equipment to support their communication needs.
Amendment No.7 – Provision of IT support

As an amendment to Amendment 1 in the name of Maureen Watt MSP, in paragraph (b), after (“equipment,”) insert (“including IT services which support and enhance the use of that equipment.”)

Effect

This amendment would provide that the support to assist persons to use communication equipment, put in place by the Scottish Ministers under Section 46A of the 1978 Act, would include IT services.

Reason

Recent advances in technology mean that I-pads, Tablets and Apps are increasingly recommended, and used, by people who use AAC. This means that many AAC users now have the opportunity to use mainstream technology, which is often a more acceptable, affordable and cost-effective option for people. However, there are a significant number of challenges which make it difficult for those working in the NHS to support people to use this mainstream technology, as outlined below:

- NHS computers do not allow individuals to set up and use iTunes. It is, therefore, not possible for individual therapists to download Apps or to keep them updated. Some NHS areas have found ways around this, but the solutions are cumbersome and often involve staff having to download Apps at home.

- Some NHS areas have ‘locked down’ I-pads so that people can only use the specific App and not other facilities such as Facebook and e-mail. Given that people may be living on their own, this restriction may affect their ability to maintain independent living, or will mean that they have to use a different device for keeping in touch with the outside world, getting help in an emergency, etc.

- Use of Wi-fi in hospitals is variable and slow, so is not an ideal solution for keeping apps up to date.

Communication equipment and support service providers require the support of IT services to manage the AAC equipment. The RCSLT, therefore, believes this amendment is essential to ensure that the support provided in helping people to use the equipment includes IT services. We consider that this is essential to maximise the capacity of the equipment to meet their communication needs, and to ensure that they can benefit from reliable, high quality support from the AAC equipment.
Amendment No.8 – Persons qualifying for communication equipment and support

As an amendment to Amendment 1 in the name of Maureen Watt MSP, after (“equipment”) in paragraph (b) leave out from (“to”) until (“speaking.”) and insert (“to any child, or adult, who has difficulty communicating due to a disability as prescribed under the Equality Act 2010, and who can benefit from communication equipment and support”).

Effect

This amendment would specify which persons would be able to secure communication equipment and support under new Section 46A of the 1978 Act.

Reason

RCSLT believe the description of those who would qualify for communication equipment and support is very broad and may lead to unintended provision to those with very transient speech, language and communication needs.

RCSLT suggest the definition of who would fall under the duty to make provision of communication equipment and support may helpfully be tightened as suggested.
Amendment No.9 – Duty on the Scottish Ministers to take a person centred approach

After Section 31, Page 22, line 17, insert-

(Duty to meet all the person’s communication and support needs

After new Section 46A (‘Duty to provide or secure communication equipment’) in new Part (‘Provision of Communication Equipment’) of the National Health Service (Scotland) Act 1978 insert the following new section-

(“(46AC) Communication and support needs

The Scottish Ministers shall ensure that where they provide, or secure the provision of, communication equipment and support to a person under Section 46A of the 1978 Act, the communication equipment and support provided must meet all of the communication and support needs of that person.”)

Effect

This amendment would place a duty on the Scottish Ministers, when providing or securing the provision of communication equipment and support, to a person requiring equipment and support under Section 46A of the National Health (Scotland) Act 1978 to take a person centred approach. This would require the Scottish Ministers to ensure that the communication equipment and support provided meets all of the communication and support needs of the person – as required in different circumstances in which they live, work and learn.

Reason

Augmentative and Alternative Communication (“AAC”) services could potentially help to make better communication possible for an estimated 26,500 people in Scotland. The RCSLT, therefore, welcomes the Scottish Government’s decision to lodge Amendment No.1 to the Health (Tobacco, Nicotine etc. and Care)(Scotland) Bill. This amendment will place a duty on the Scottish Ministers to meet all reasonable requirements to provide, or to secure the provision of, communication equipment and support in using that equipment to any person who has lost their voice, or has difficulty speaking. The RCSLT believes, however, that, while welcoming the Scottish Government’s proposal to increase the availability of such equipment and support, additional action will be necessary to maximise the benefits for people with communication support needs.

The RCSLT considers, for example, that a person centered approach must be taken by the Scottish Ministers to providing, or securing the provision of, communication equipment and support, to a person under Section 46A of the 1978 Act.

RCSLT think it is particularly important that the approach taken to providing such assistance should not be limited to one “aid”/one person. In this respect, we believe it is essential that the Scottish Ministers, and service providers,
recognise that people requiring support under Section 46A may require more than one AAC system over the period of their lifetime. It is also essential that they acknowledge that some people with communication needs may require more than one type of aid for different aspects of their lives at any one time – for example a child might need different communication equipment for use at home, school and scouts and an adult may need various aids to support communication at work, home and leisure activities.

This amendment would address these areas by requiring the Scottish Ministers to ensure that the communication equipment and support provided meets all of the specific communication and support needs of the person. It would also provide that the communication equipment and support put in place under Section 46A of the 1978 Act matches the person’s communication support needs at all ages, and at all stages of life.
Amendment No.10 – Access to different types of communication equipment

After Section 31, Page 22, line 17, insert-

(Duty to provide access to different types of communication equipment

After new Section 46A (‘Duty to provide or secure communication equipment’) in new Part (‘Provision of Communication Equipment’) of the National Health Service (Scotland) Act 1978 insert the following new section-

(“(46AD) Access to different types of communication equipment

Communication equipment provided to a person under Section 46A of the 1978 Act shall include facilitating access as appropriate:

(a) to daily living controls; and

(b) to modern communication channels including digital communications media.”)

Effect

This amendment would ensure that the communication equipment which the Scottish Ministers’ provide or to which they secure provision, includes facilitating access, as appropriate, to daily living controls and to modern communication channels.

Reason

Technological advances allow people to control their environment, the movement of their wheelchair and access to modern communications through their computer. It is, therefore, best practice, practical and convenient to integrate these options with a person’s communication equipment, as appropriate. Rather than have several devices to do multiple things positioned around an individual it is obviously better to combine several functions (not all strictly to do with communication) into one device.

This amendment would act to ensure this facility was always made available to people with multiple support needs wherever possible.
Amendment No.11 – Provision of Communication equipment and support service pathway

After Section 31, Page 22, line 17, insert-

(Regulations: Communication equipment and support service pathway

After new Section 46A (‘Duty to provide or secure communication equipment’) in new Part (‘Provision of Communication Equipment’) of the National Health Service (Scotland) Act 1978 insert the following new section-

(“46AE) Regulations: Communication equipment and support service pathway

(1) The Scottish Ministers shall, by regulations, make such arrangements as they consider reasonable to ensure that persons requiring communication equipment and support under Section 46A of the 1978 Act receive these as set out in a communication equipment and support service pathway.

(2) A communication equipment and support service pathway, introduced by regulations under subsection (1) above, shall confirm the levels, and types, of advice, care and support which must be put in place to meet the communication support needs of individuals with communication disability in any given community, and include details of how such provision shall be reviewed.

(3) Regulations introduced under subsection (1) above may include matters relating to:

(a) access to communication equipment provider services;

(b) the assessment and identification of the specific communication and support needs of such persons requiring communication equipment and support under Section 46A of the 1978 Act;

(c) the selection of appropriate communication equipment to meet all of the person’s communication and support needs, including provision of more than one piece of communication equipment at any one time if required;

(d) the purchase and provision of communication equipment;

(e) the purchase and provision of associated software;

(f) access to voice bank and other accessories as appropriate;

(g) insurance and maintenance of equipment;

(h) the review and replacement of that equipment as required;

(i) the availability of trained staff;
(j) training and support for carers;

(k) Information Technology support services which enable and enhance the use of communication equipment;

(l) the integration of communication equipment with daily living controls, and with modern communication channels including digital communications media; and

(m) quality standards of practice, outcomes and associated indicators relating to the communication equipment and support pathway.

(3) Regulations under subsection (1) must not be made unless a draft of the statutory instrument containing the regulations has been laid before, and approved by resolution of, the Scottish Parliament.

(3) Before laying draft regulations before the Scottish Parliament under subsection (1) above, the Scottish Ministers must consult—

(a) NHS Health Boards;

(b) local authorities;

(c) persons who require, or are likely to require, communication equipment and support under Section 46A of the 1978 Act;

(d) organisations working for, and on behalf of, persons who require, or are likely to require, communication equipment and support under Section 46A of the 1978 Act; and

(e) such other persons as they consider appropriate.

(4) For the purposes of such a consultation, the Scottish Ministers must—

(a) lay a copy of the proposed draft regulations before the Scottish Parliament,

(b) publish in such manner as the Scottish Ministers consider appropriate a copy of the proposed regulations, and

(c) have regard to any representations about the proposed draft regulations that are made to them within 60 days of the date on which the copy of the proposed draft regulations are laid before the Scottish Parliament.

(5) In calculating any period of 60 days for the purposes of subsection (4)(c), no account is to be taken of any time during which the Scottish Parliament is dissolved or is in recess for more than 4 days.

(6) When laying draft regulations before the Scottish Parliament under subsection (1), the Scottish Ministers must also lay before the Scottish Parliament an explanatory document giving details of—

(a) the consultation carried out under subsection (3),
(b) any representations received as a result of the consultation, and

(c) the changes (if any) made to the proposed draft regulations as a result of those representations.

Effect

This amendment would provide that a person, receiving communication equipment and support under Section 46A of the 1978 Act, does so as set out in a communication equipment and support service pathway.

Reason

People with communication support needs experience huge variability in the following areas of service provision, depending on their age, life stage, capacity to advocate and geographical location:

- access to communication equipment provider services;
- assessment of needs;
- selection of appropriate communication equipment to meet all of the person’s communication and support needs, including provision of more than one piece of communication equipment at any one time if required;
- purchase and provision of communication equipment,
- purchase and provision of associated software;
- access to voice bank and other accessories as appropriate;
- insurance and maintenance of equipment;
- the review, and replacement, of communication equipment as required;
- the availability of trained staff;
- Carer training and support;
- IT support services which support and enhance the use of that equipment;
- The integration of communication equipment with daily living controls and modern communication channels including digital communications media; and

This amendment seeks to introduce regulations which would ensure equity of access to specified quality communication equipment and support service pathway.
Amendment No.12 – Duty to review communication equipment and support needs

After Section 31, Page 22, line 17, insert-

(Duty to review communication equipment and support needs

After new Section 46A (‘Duty to provide or secure communication equipment’) in new Part (‘Provision of Communication Equipment’) of the National Health Service (Scotland) Act 1978 insert the following new section-

(‘46AF) Review of communication equipment and support needs

(1) This section applies where the Scottish Ministers have provided, or secured the provision of, communication equipment and support to a person under Section 46A of the 1978 Act.

(2) The Scottish Ministers must keep under review the communication equipment and support it has provided to, or secured for, a person, and shall conduct a review of its fitness and appropriateness on a reasonable request made by, or on behalf of, the person.

(3) The Scottish Ministers may replace or provide new communication equipment, and put in place new types and levels of support, and in deciding whether or how to do so, they—

(a) must have regard to the capacity and effectiveness of any communication equipment and support provided under Section 46A of the 1978 Act to meet the person’s communication and support needs, and in particular to meet any changes in the person’s communication and support needs, and

(b) must involve—

(i) the person requiring the communication equipment and support;

(ii) any carer that the person may have and whom the person requiring the communication equipment and support asks the Scottish Ministers to involve; and

(iii) any other person whom the person requiring the communication equipment and support asks the Scottish Ministers to involve.”).

Effect

This amendment is designed to ensure that, where a person has been provided with communication equipment and support under Section 46A of the 1978 Act, the Scottish Ministers shall conduct a review of its fitness and appropriateness on a reasonable request made by, or on behalf of, the person.
Reason

Children’s communication support needs change as they get older and move through school into an independent, adult life. The needs of adults who acquire communication support needs may change as the condition underlying their communication disability changes. Individuals need therefore to have the provision of communication equipment and support to be reviewed regularly and / or on request.

Further information can be obtained from Kim Hartley Kean, Head of RCSLT Scotland Office, on 0131-226-5250, or by e-mail (kim.hartleykean@rcslt.org).

Amendment No.13 – Duty to ensure sufficient levels of skilled staff are available

After Section 31, Page 22, line 17, insert-

(Duty to ensure sufficient levels of skilled staff are available

After new Section 46A (‘Duty to provide or secure communication equipment’) in new Part (‘Provision of Communication Equipment’) of the National Health Service (Scotland) Act 1978 insert the following new section-

(‘46AG) Availability of trained staff

The Scottish Ministers must ensure that a sufficient number of persons is available throughout Scotland with the appropriate skills and training to provide care and assistance to those who have communication disability and require communication equipment, and support, under Section 46A of the 1978 Act.”)

Effect

This amendment would place a duty on the Scottish Ministers to ensure that sufficient levels of skilled staff are available throughout Scotland to provide care and assistance to those who have a communication disability and require communication equipment, and support in using that equipment.

Reason:

People who use communication equipment need those they live, work and learn with, and learn from, to understand how they can enable the individual to get optimum benefit from their communication equipment. This need for awareness and understanding extends to the general community and service providers in the public, private and third sectors generally.

IPAACKS, (Informing and Profiling Augmentative and Alternative Communication Knowledge and Skills Supporting the learning and development of people working with individuals who use AAC) which was commissioned by Scottish Government as part of AAC Strategy “Right to Speak” provides details of the competences required in the workforce to
enable people to gain optimum benefit from communication equipment. See http://www.nes.scot.nhs.uk/media/2507407/nesd0214aacframework-re.pdf.

Implementation of this learning and development framework requires ongoing commitment and investment from stakeholders in staff development.

This amendment seeks to ensure people who use communication equipment enjoy the understanding, awareness and access to skilled staff which they need to use their communication equipment effectively.

Further information can be obtained from Kim Hartley Kean, Head of RCSLT Scotland Office, on 0131-226-5250, or by e-mail (kim.hartleykean@rcslt.org).
Amendment No.14 — Duty to publish indicators

After Section 31, Page 22, line 17, insert-

(Guidance: quality outcome measures and indicators)

After new Section 46A (‘Duty to provide or secure communication equipment’) in new Part (‘Provision of Communication Equipment’) of the National Health Service (Scotland) Act 1978 insert the following new section-

("(46AH) Guidance: measures and indicators

(1) The Scottish Ministers shall issue guidance relating to the provision of communication equipment, and to support in using that equipment, under this Part.

(2) Guidance issued by the Scottish Ministers under subsection (1) above shall include and set out:

(a) The quality outcome measures and indicators against which the Scottish Ministers intend to measure progress towards meeting any quality outcome targets set in relation to the impact of providing communication equipment and support on the lives of those persons receiving such equipment and support; and

(b) Details of how they otherwise intend to assess whether the provision of communication equipment, and support in using that equipment, has met, or made progress towards meeting, any quality outcome target included in the guidance.

(3) Guidance may be issued generally or for particular purposes.

(4) Before issuing or revising guidance, the Scottish Ministers must consult persons to whom it relates").

Effect

This amendment will require the Scottish Ministers to publish guidance, which shall include the quality outcome measures and indicators against which the Scottish Ministers intend to measure progress towards meeting any quality outcome targets set in relation to the impact of providing communication equipment and support on the lives of those persons receiving such equipment and support.

Reason

People with communication support needs experience huge variability in the quality, including timeliness, of service provision, depending on their age, life stage, capacity to advocate and geographical location.

This amendment seeks to establish guidance which would set out the standards of provision – including the speed of provision of communication
equipment and support services – which the Minister would regard as appropriate and necessary.

Further information can be obtained from Kim Hartley Kean, Head of RCSLT Scotland Office, on 0131-226-5250, or by e-mail (kim.hartleykean@rcslt.org).

Amendment No.15 – Duty to publish an annual report

After Section 31, Page 22, line 17, insert-

(Annual Report: Duty to publish an annual report

After new Section 46A ('Duty to provide or secure communication equipment') in new Part ('Provision of Communication Equipment') of the National Health Service (Scotland) Act 1978 insert the following new section-

('46AI) Annual Report

(1) The Scottish Ministers must, as soon as practicable after the end of each reporting year, prepare and publish a report ("an annual report") about the provision of communication equipment, and about the provision of support in using that equipment, under Section 46A of the 1978 Act, in that reporting year.

(2) An annual report prepared and published under subsection (1) above shall include details of the following for the reporting year-

(a) The total number of persons requiring communication equipment under Section 46A of the 1978 Act;

(b) The total number of persons who were provided with communication equipment under Section 46A of the 1978 Act;

(c) The total number of persons who were provided with communication equipment under Section 46A of the 1978 Act, and with support in using that equipment;

(d) The total number of persons who were provided with communication equipment under Section 46A of the 1978 Act to replace existing communication equipment;

(e) Confirmation of the cost of communication equipment, and support, provided under Section 46A of the 1978 Act;

(f) An estimate of the total number of persons who, identified in the reporting year as requiring communication equipment under Section 46A of the 1978 Act, were provided, and were not provided, with this equipment in the reporting year;
(g) Confirmation of the average length of time required to provide communication equipment and support to a person, from the date in the reporting year at which the person was identified as a person requiring communication equipment and support under Section 46A of the 1978 Act, to the date in the reporting year when the person was provided with this equipment and support;

(h) An update on the progress made towards meeting any quality outcome targets set in relation to providing communication equipment and support, and its impact upon the lives of those persons receiving such equipment and support; and

(i) Any other matters relevant to the provision of communication equipment and support under Section 46A of the 1978 Act.

(3) The Scottish Ministers must, as soon as reasonably practicable after publishing an annual report under subsection (1) above, lay a copy of the report before the Scottish Parliament.

Effect

This amendment would require the Scottish Ministers to publish an annual report about the provision of communication equipment, and about the provision of support in using that equipment, under Section 46A of the 1978 Act.

Reason

An annual report, furnished with data and feedback from people who use communication equipment and access communication support services as well as data and feedback from service providers and data comparing actual with required provision would act to;

- Benchmark the quality and effectiveness of Communication Equipment and Support Services
- Regularly monitor, evaluate and make public the quality and effectiveness of Communication Equipment and Support Services across Scotland
- Inform continuous service improvement for the people of Scotland including the sharing and spread of good practice
- Enable the Minister and others responsible for implementing the duty to give account of their activity.
Amendment No.16 – Arrangements for an independent evaluation

After Section 31, Page 22, line 17, insert-

(Duty to make arrangements for an independent evaluation

After new Section 46A (‘Duty to provide or secure communication equipment’) in new Part (‘Provision of Communication Equipment’) of the National Health Service (Scotland) Act 1978 insert the following new section-

(‘(46AK) Independent evaluation

(1) No later than 2 years after this Act has come into force, the Scottish Ministers must make arrangements for the independent evaluation of the provision of communication equipment and support under this Part of the Act.

(2) The evaluation (carried out by an independent person) shall analyse and assess:

   (a) The extent to which the Scottish Ministers have complied with their duties under Section 46A of the National Health Service (Scotland) Act 1978;

   (b) the quality and effectiveness of the communication equipment provided by the Scottish Ministers under Section 46A of the National Health Service (Scotland) Act 1978;

   (c) the quality and effectiveness of the support provided to persons using communication equipment provided under Section 46A of the National Health Service (Scotland) Act 1978; and

   (d) the impact which the communication equipment and support provided under Section 46A of the National Health Service (Scotland) Act 1978 has had on the lives of the persons requiring such equipment.

(3) The Scottish Ministers must, as soon as reasonably practicable after receiving a report of the evaluation, lay a copy of the report before the Scottish Parliament.

Effect

This amendment would require the Scottish Ministers to make arrangements, no later than 2 years after the Act has come into force, for an independent evaluation of the provision of communication equipment and support under Section 46A of the 1978 Act.

Reason

Independent evaluation of communication equipment and support services would act to
Independent benchmark the quality and effectiveness of those services

Regularly monitor, evaluate and make public the quality and effectiveness of communication equipment and support services across Scotland

Inform continuous service improvement for the people of Scotland including the sharing and spread of good practice

Enable the Minister and others responsible for implementing the duty to give account of their activity.

Further information can be obtained from Kim Hartley Kean, Head of RCSLT Scotland Office, on 0131-226-5250, or by e-mail (kim.hartleykean@rcslt.org).

Amendment No.17 – Duty to ensure arrangements are put in place to secure feedback

After Section 31, Page 22, line 17, insert-

(Duty to ensure arrangements are put in place to secure feedback)

After new Section 46A (‘Duty to provide or secure communication equipment’) in new Part (‘Provision of Communication Equipment’) of the National Health Service (Scotland) Act 1978 insert the following new section-

(“46AL) Annual feedback survey

(1) The Scottish Ministers must, as soon as practicable after the end of each reporting year undertake, or make arrangements for the undertaking of, a feedback survey of those persons who were provided with communication equipment, and with support, under Section 46A of the 1978 Act in that reporting year.

(2) The survey shall seek the feedback and views of those who were provided with communication equipment, and with support, under Section 46A of the 1978 Act on the following issues and matters:-

(a) The processes and procedures involved in assessing a person’s communication needs, and in ensuring that they received appropriate communication equipment and support to meet those needs;

(b) The quality and effectiveness of the communication equipment received;

(c) The quality and effectiveness of any support received in using the communication equipment;

(d) Areas in the provision of the communication equipment and support which would benefit from the provision of additional, or alternative,
communication equipment and levels or types of support in using such equipment;

(e) Examples of the provision of communication equipment and support which could be identified as best practice; and

(f) Any other matters relevant to the provision of communication equipment and support.

(3) The Scottish Ministers must, as soon as reasonably practicable after publishing a feedback survey under subsection (1) above, lay a copy of the annual feedback survey before the Scottish Parliament.

Effect

This amendment would place a duty on the Scottish Ministers to undertake, or to make arrangements for the undertaking of, an annual feedback survey of those persons who were provided with communication equipment, and with support, under Section 46A of the 1978 Act in the reporting year.

Reason

An annual feedback survey reporting the views of people who use communication equipment and access communication support services would act to;

- Benchmark the quality and effectiveness of communication equipment and support services from the perspective of people who are intended to primarily benefit from the legislation;

- Regularly monitor, evaluate and make public the quality and effectiveness of communication equipment and support services from the perspective of people who are intended to primarily benefit from the legislation;

- Inform continuous service improvement of communication equipment and support services including the sharing and spread of good practice

Further information can be obtained from Kim Hartley Kean, Head of RCSLT Scotland Office, on 0131-226-5250, or by e-mail (kim.hartleykean@rcslt.org).
Amendment No.18 – Duty to establish a national voice bank

After Section 31, Page 22, line 17, insert-

(Duty to establish a national voice bank

After new Section 46A (‘Duty to provide or secure communication equipment’) in new Part (‘Provision of Communication Equipment’) of the National Health Service (Scotland) Act 1978 insert the following new section-

(‘(46AM) Regulations: National voice bank

(1) The Scottish Ministers must by regulations make such arrangements as they consider necessary to establish a national voice bank to help meet, and to support, the communication needs of any person who has lost their voice or has difficulty speaking throughout Scotland and who chooses to and can use voice banking.

(2) Regulations under subsection (1) must not be made unless a draft of the statutory instrument containing the regulations has been laid before, and approved by resolution of, the Scottish Parliament.

(3) Before laying draft regulations before the Scottish Parliament under subsection (1) above, the Scottish Ministers must consult—

(a) NHS Health Boards;

(b) local authorities;

(c) persons who require, or are likely to require, communication equipment and support under Section 46A of the 1978 Act;

(d) organisations working for, and on behalf of, persons who require, or are likely to require, communication equipment and support under Section 46A of the 1978 Act; and

(e) such other persons as they consider appropriate.

(4) For the purposes of such a consultation, the Scottish Ministers must—

(a) lay a copy of the proposed draft regulations before the Scottish Parliament,

(b) publish in such manner as the Scottish Ministers consider appropriate a copy of the proposed regulations, and

(c) have regard to any representations about the proposed draft regulations that are made to them within 60 days of the date on which the copy of the proposed draft regulations are laid before the Scottish Parliament.
(5) In calculating any period of 60 days for the purposes of subsection (4)(c), no account is to be taken of any time during which the Scottish Parliament is dissolved or is in recess for more than 4 days.

(6) When laying draft regulations before the Scottish Parliament under subsection (1), the Scottish Ministers must also lay before the Scottish Parliament an explanatory document giving details of—

(a) the consultation carried out under subsection (3);

(b) any representations received as a result of the consultation; and

(c) the changes (if any) made to the proposed draft regulations as a result of those representations.

(7) In this Part “national voice bank” refers to a national system through which those who have lost their voice, or have difficulty speaking, are able throughout Scotland to access, and to make use of, voice recordings to be used in communication equipment to support their own communication needs.

Effect

This amendment would place a duty on the Scottish Ministers to establish a national voice bank, which would enable those who have lost their voice, or have difficulty speaking, to access and make use of voice recordings to be used in communication equipment to support their own communication needs – if they choose to and they can.

Reason

Some people can choose to have their own voice recorded (before it deteriorates) and later used as their voice on voice output equipment. This is known as “voice banking”. Alternative synthesised voices – using voices gathered from people with similar demographic characteristics – may also be available to individuals in Scotland in the future. Scottish Government is currently supporting research (led by the Euan MacDonald Centre, Edinburgh) which aims to test and spread the use of “Voice banking” across Scotland.

It is not entirely clear who could benefit from advances in voice banking. Whether or not someone can benefit from a voice bank is determined by the sort of communication equipment they are using and personal choice following consideration by them and normally their speech and language therapist.

This amendment would ensure that the people of Scotland are assured of benefiting from this “made in Scotland” innovative work going forward.
Amendment No.19 - Duty to establish a national data set

After Section 31, Page 22, line 17, insert-

(Duty to establish a national data set)

After new Section 46A (‘Duty to provide or secure communication equipment’) in new Part (‘Provision of Communication Equipment’) of the National Health Service (Scotland) Act 1978 insert the following new section-

(“46AN) Regulations: National data set

(1) The Scottish Ministers must by regulations make such arrangements as they consider necessary to establish a national data set to help meet, and to support, the communication needs of any person who has lost their voice or has difficulty speaking.

(2) Regulations under subsection (1) must not be made unless a draft of the statutory instrument containing the regulations has been laid before, and approved by resolution of, the Scottish Parliament.

(3) Before laying draft regulations before the Scottish Parliament under subsection (1) above, the Scottish Ministers must consult—

(a) NHS Health Boards;

(b) local authorities;

c) persons who require, or are likely to require, communication equipment and support under Section 46A of the 1978 Act;

(d) organisations working for, and on behalf of, persons who require, or are likely to require, communication equipment and support under Section 46A of the 1978 Act; and

(e) such other persons as they consider appropriate.

(4) For the purposes of such a consultation, the Scottish Ministers must—

(a) lay a copy of the proposed draft regulations before the Scottish Parliament,

(b) publish in such manner as the Scottish Ministers consider appropriate a copy of the proposed regulations, and

(c) have regard to any representations about the proposed draft regulations that are made to them within 60 days of the date on which the copy of the proposed draft regulations are laid before the Scottish Parliament.
(5) In calculating any period of 60 days for the purposes of subsection (4)(c), no account is to be taken of any time during which the Scottish Parliament is dissolved or is in recess for more than 4 days.

(6) When laying draft regulations before the Scottish Parliament under subsection (1), the Scottish Ministers must also lay before the Scottish Parliament an explanatory document giving details of—

(a) the consultation carried out under subsection (3),

(b) any representations received as a result of the consultation, and

(c) the changes (if any) made to the proposed draft regulations as a result of those representations.

(7) In this Part “national data set” refers to a national system through which the use, availability and location of communication equipment to support the communication needs of those who have lost their voice, or have difficulty speaking, are recorded, monitored and kept up to date.

Effect

This amendment would require the Scottish Ministers to establish a national data set through which the use, availability and location of communication equipment to support the communication needs of those who have lost their voice, or have difficulty speaking, are recorded, monitored and kept up to date.

Reason

Intelligence on demand for and provision of communication equipment and support services is currently unavailable in Scotland in any consistent, regular or reliable form. Similarly information on used and unused equipment already purchased by the public purse is unavailable as is information on efficacy of equipment and support services.

A national data set – ideally developed and managed by a national service (such as ISD) could:

- Support national level procurement – for equity and economies of scale
- Facilitate establishment of a virtual national equipment bank – for loans etc.
- Support collection of outcomes data and patient feedback; annual reporting etc.
- Inform research and service development
Amendment No.20 – Duty to co-operate

After Section 31, Page 22, line 17, insert-

(Directions: duty to co-operate)

After new Section 46A (‘Duty to provide or secure communication equipment’) in new Part (‘Provision of Communication Equipment’) of the National Health Service (Scotland) Act 1978 insert the following new section-

(“(46AO) Directions: duty to co-operate

(1) The Scottish Ministers may issue directions to service providers where it is necessary for a person requiring support under Section 46A of the 1978 Act to receive communication equipment, and support in using that equipment, from more than one service provider.

(2) Directions issued by the Scottish Ministers under subsection (1) above shall include directions to service providers about the need to co-operate with each other in relation to the efficient and effective use of their resources (including in particular buildings, staff and equipment) in pursuance of providing equipment and support to a person under Section 46A of the 1978 Act.

(3) A service provider must comply with a direction given to it under this section.

(4) Directions under this section must be in writing”).

Effect

This amendment would give the Scottish Ministers the power to issue directions to service providers where it is necessary for a person requiring support under Section 46A of the 1978 Act to receive communication equipment, and support in using that equipment, from more than one service provider. Directions issued would include directions on such service providers to co-operate with each other.

Reason

Statutory children and young people’s outcomes (as set out in the Children and Young People’s Act 2014) and overarching related “Getting it right for every child” policy makes it clear both that multiple agencies are responsible for securing positive outcomes for children and young people – and – that all the so called “SHANARRI” outcomes are underpinned by speech, language and communication ability. Services that provide for children and young people who have use communication equipment and support services are more than likely to be subject to Additional Support Needs legislation. In this context success of the communication equipment and support services is dependent on the co-operation of multiple agencies, most commonly health and education services but possibly also including social care and 3rd sector agencies.
The Public Bodies (Joint Working) Act 2014 makes it clear that multiple agencies are responsible for securing the health and well being outcomes of both children and adults. The Scottish Governments Disability Delivery Plan identifies “Communication is accessible and inclusive of all” as 1 of only 3 cross cutting themes underpinning all outcomes sought for people with disability.

Scottish Government’s previous AAC Strategy “Right to Speak” made a commitment to raise awareness of both the public and public service providers of the AAC user’s needs – and to develop skills to cater for these needs.

In this context, provision of communication equipment and communication support services for individuals – including adults - is the role of multiple agencies most commonly health, social care, 3rd sector but also including others such as justice, education (at all levels) and culture services.

This amendment would help to secure the co-operation of all agencies in ensuring people who use communication equipment are enabled to enjoy an optimum quality of life.
Amendment No. 21 - Functions of service providers

After Section 31, Page 22, line 17, insert-

(“Guidance: functions of service providers

After new Section 46A (‘Duty to provide or secure communication equipment’) in new Part (‘Provision of Communication Equipment’) of the National Health Service (Scotland) Act 1978 insert the following new section-

(“(46AP) Guidance: functions of service providers

(1) The Scottish Ministers shall issue guidance relating to the functions of service providers which provide, or secure the provision of, communication equipment, and support, to persons under Section 46A of the 1978 Act.

(2) Guidance issued under subsection (1) above shall include guidance relating to the functions of service providers providing communication and support to such persons on a national, regional and local basis.

(3) Guidance may be issued generally or for particular purposes.

(4) Before issuing or revising guidance, the Scottish Ministers must consult persons to whom it relates”.

Effect

This amendment would ensure that guidance issued by the Scottish Ministers includes guidance relating to the functions of service providers providing communication and support to persons requiring communication equipment and support under Section 46A of the 1978 Act.

Reason

Effective provision of communication equipment and communication support to the people of Scotland can best be achieved through partnership working between local, regional and national level communication equipment and communication support service providers. For example;

A: Individuals should receive services at as local a level as possible.

B: Regional services can provide that extra expertise and access to particularly expensive equipment which would not be economic to provide and / or available at every local level.

C: National level services could:

- Establishing a national data set
- Facilitate national procurement – for equity and economies of scale
- Establish a virtual national equipment bank – for loans etc.
• Collect outcomes data and patient feedback

• Develop and provide “Universal level” support activities e.g. inclusive communication developments across the community.

• Maintain and update the national online resources developed during the Right to Speak Project e.g. the Now Hear Me website and online community of practice

• Maintain and update IPAACKS (a Scottish Government Commissioned on line CPD tool)

• Lead on research and development

• Lead on the development of training/education opportunities in AAC

This amendment would help to secure clear and consistent roles of services at different levels of service and in doing so help to establish efficiencies, reduce waste and duplication of effort.
Amendment No.22 - Interpretation

After Section 31, Page 22, line 17, insert-

("Interpretation of New Part (Provision of Communication Equipment"

After new Section 46A ('Duty to provide or secure communication equipment') in new Part ('Provision of Communication Equipment') of the National Health Service (Scotland) Act 1978 insert the following new section-

("(46AQ) Interpretation"

In this Part-

“a communication equipment and support service pathway, refers to the levels, and types, of advice, care and support which must be put in place to meet the communication support needs of individuals with communication disability in any given community, and include details of how such provision shall be reviewed”.

“communication equipment” refers to equipment which provides pictures, gestures, symbols or photographs, as well as to digital technology equipment, including voice output communication aids and associated software and a voice bank and related accessories.

“Health Board” means a board constituted by an order under section 2(1)(a) of the National Health Service (Scotland) Act 1978.

“Local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994.

“national data set” refers to a national system through which the use, availability and location of communication equipment to support the communication needs of those who have lost their voice or have difficulty speaking are recorded, monitored and kept up to date.

“national voice bank” refers to a national system through which those who have lost their voice or have difficulty speaking are able throughout Scotland to access, and to make use of, voice recordings to be used in communication equipment to support their own communication needs.

“reporting year” means a period of one year beginning on 1 April.

“support” refers to facilitating access to communication equipment provider services, to arranging and undertaking an assessment of need for communication equipment and support services, to assistance in selecting appropriate communication equipment, to purchasing that equipment and any necessary software, access to voice bank and other accessories as appropriate, to providing support in using that equipment as required by the individual, to access to voice bank as appropriate, to support for insurance and maintenance of equipment and the review, and replacement, of communication equipment as required, to the availability of trained staff, carer
training and support and IT support services which support and enhance the use of that equipment and to any related matters

“the 1978 Act" means the National Health Service (Scotland) Act 1978.”

Effect

Technical amendment which provides definitions of certain key terms used in the amendments to the proposed New Part ('Provision of Communication Equipment') to the 1978 Act.

Reason

The definition of terms aims to support consistent interpretation and effective implementation of the Bill.
Health (Tobacco, Nicotine etc. and Care)(Scotland) Bill
Keeling Schedule
Keeling Schedule

This document sets out the amendments made by the Health (Tobacco, Nicotine etc. and Care)(Scotland) Bill in the context of the new Part to the National Health Service (Scotland) Act 1978 introduced by Amendment No.1 in the name of Maureen Watt MSP, the Minister for Public Health. The document is provided to assist in the scrutiny of the Health (Tobacco, Nicotine etc. and Care)(Scotland) Bill. It is for illustrative purposes only, and is provided to aid understanding of the amendments.

The Minister’s Amendment, which introduces a new Part and Section 46A to the National Health Service (Scotland) Act 1978, is presented in underline. All amendments to the Minister’s amendment, and amendments which introduce new sections to the National Health Service (Scotland) Act 1978 appear in normal text.

NATIONAL HEALTH SERVICE (SCOTLAND) ACT 1978

NEW PART

PROVISION OF COMMUNICATION EQUIPMENT AND SUPPORT

General Principles

(46AA) General principles

(1) The Scottish Ministers must have regard to the principles in subsections (2) to (5) in carrying out their functions under Part (‘Provision of Communication Equipment and Support’) of the 1978 Act.

(2) A person who wishes to be provided with communication equipment, and with support, under Section 46A of the 1978 Act must have as much involvement as the person wishes in relation to decisions about—

(a) the assessment of the person’s needs for communication equipment;

(b) the selection of appropriate communication equipment;

(c) the use of that equipment throughout their daily life;

(d) the training of relevant staff and carers to support the person in using that equipment;

(e) the integration of communication equipment with daily living controls and with modern communication channels including digital communications media; and

(f) the review and replacement of communication equipment.

(3) A person must be provided with any assistance that is reasonably required to enable the person—

(a) to express any views the person may have about the options for communication equipment, and about support, provided under Section 46A of the 1978 Act; and

(b) to make an informed choice when choosing an option for communication equipment, and support provided under Section 46A of the 1978 Act.
(4) The Scottish Ministers must collaborate with a person in relation to—

(a) the assessment of the person’s needs for communication equipment; and

(b) the provision of support for the person

(5) The Scottish Ministers must, in complying with their duties under Section 46A of the 1978 Act, ensure that any communication equipment, and any support, required is provided to the person as a matter of urgency.

Further general principles

(46AB) Further general principles

The Scottish Ministers must, in carrying out their functions under this Part in relation to a person who requires communication equipment and support under Section 46A of the 1978 Act, take reasonable steps to facilitate the following general principles—

(a) that ensuring maintenance of the person’s capacity to communicate is recognised as being as equally important as the need to maintain their physical health;

(b) that any communication equipment and support provided meets all the person’s communication support needs, including any changes in those needs;

(c) that any communication equipment and support is provided on an equitable basis, regardless of the person’s age, of where they live and of the reasons why they need the communication equipment and support in using that equipment;

(d) that the right to dignity of the person is to be respected; and

(e) that the person’s rights to participate in the life of the community in which the person lives, and to live independently, are to be respected.

Duty to provide or secure communication equipment and support

(46A) Provision of communication equipment and support

The Scottish Ministers must, to such extent as they consider necessary to meet all reasonable requirements, provide or secure the provision of—

(a) communication equipment, [associated software, access to a voice bank and other accessories as appropriate]; and

(b) support in using that equipment, [including IT services which support and enhance the use of that equipment,]

[to any child, or adult, who has difficulty communicating due to a disability as prescribed under the Equality Act 2010, and who can benefit from communication equipment and support.]

[Duty to meet all the person’s communication and support needs]

[(46AC) Communication and support needs]

The Scottish Ministers shall ensure that where they provide, or secure the provision of, communication equipment and support to a person under Section 46A of the 1978 Act, the communication equipment and support provided must meet all of the communication and support needs of that person.]
(46AD) Access to different types of communication equipment

Communication equipment provided to a person under Section 46A of the 1978 Act shall include facilitating access as appropriate:

(a) to daily living controls; and

(b) to modern communication channels including digital communications media."

[(46AE) Regulations: Communication equipment and support service pathway]

(1) The Scottish Ministers shall, by regulations, make such arrangements as they consider reasonable to ensure that persons requiring communication equipment and support under Section 46A of the 1978 Act receive these as set out in a communication equipment and support service pathway.

(2) A communication equipment and support service pathway, introduced by regulations under subsection (1) above, shall confirm the levels, and types, of advice, care and support which must be put in place to meet the communication support needs of individuals with communication disability in any given community, and include details of how such provision shall be reviewed.

(3) Regulations introduced under subsection (1) above may include matters relating to:

(a) access to communication equipment provider services;

(b) the assessment and identification of the specific communication and support needs of such persons requiring communication equipment and support under Section 46A of the 1978 Act;

(c) the selection of appropriate communication equipment to meet all of the person’s communication and support needs, including provision of more than one piece of communication equipment at any one time if required;

(d) the purchase and provision of communication equipment;

(e) the purchase and provision of associated software;

(f) access to voice bank and other accessories as appropriate;

(g) insurance and maintenance of equipment;

(h) the review and replacement of that equipment as required;

(i) the availability of trained staff;

(j) training and support for carers;

(k) Information Technology support services which enable and enhance the use of communication equipment;

(l) the integration of communication equipment with daily living controls, and with modern communication channels including digital communications media; and

(m) quality standards of practice, outcomes and associated indicators.
(3) Regulations under subsection (1) must not be made unless a draft of the statutory instrument containing the regulations has been laid before, and approved by resolution of, the Scottish Parliament.

(3) Before laying draft regulations before the Scottish Parliament under subsection (1) above, the Scottish Ministers must consult—

(a) NHS Health Boards;

(b) local authorities;

(c) persons who require, or are likely to require, communication equipment and support under Section 46A of the 1978 Act;

(d) organisations working for, and on behalf of, persons who require, or are likely to require, communication equipment and support under Section 46A of the 1978 Act; and

(e) such other persons as they consider appropriate.

(4) For the purposes of such a consultation, the Scottish Ministers must—

(a) lay a copy of the proposed draft regulations before the Scottish Parliament,

(b) publish in such manner as the Scottish Ministers consider appropriate a copy of the proposed regulations, and

(c) have regard to any representations about the proposed draft regulations that are made to them within 60 days of the date on which the copy of the proposed draft regulations are laid before the Scottish Parliament.

(5) In calculating any period of 60 days for the purposes of subsection (4)(c), no account is to be taken of any time during which the Scottish Parliament is dissolved or is in recess for more than 4 days.

(6) When laying draft regulations before the Scottish Parliament under subsection (1), the Scottish Ministers must also lay before the Scottish Parliament an explanatory document giving details of—

(a) the consultation carried out under subsection (3),

(b) any representations received as a result of the consultation, and

(c) the changes (if any) made to the proposed draft regulations as a result of those representations.

[Duty to review communication equipment and support needs]

[(46AF) Review of communication equipment and support needs]

(1) This section applies where the Scottish Ministers have provided, or secured the provision of, communication equipment and support to a person under Section 46A of the 1978 Act.

(2) The Scottish Ministers must keep under review the communication equipment and support it has provided to, or secured for, a person, and shall conduct a review of its fitness and appropriateness on a reasonable request made by, or on behalf of, the person.

(3) The Scottish Ministers may replace or provide new communication equipment, and put in place new types and levels of support, and in deciding whether or how to do so, they—

(a) must have regard to the capacity and effectiveness of any communication equipment and support provided under Section 46A of the 1978 Act to meet the person’s communication and support needs, and in particular to meet any changes in the person’s communication and support needs; and
(b) must involve—

(i) the person requiring the communication equipment and support;

(ii) any carer that the person may have and whom the person requiring the communication equipment and support asks the Scottish Ministers to involve; and

(iii) any other person whom the person requiring the communication equipment and support asks the Scottish Ministers to involve.]

[Duty to ensure sufficient levels of skilled staff are available]

[(46AG) Availability of trained staff

The Scottish Ministers must ensure that a sufficient number of persons is available throughout Scotland with the appropriate skills and training to provide care and assistance to those who have communication disability and require communication equipment, and support, under Section 46A of the 1978 Act.]

[Guidance: quality outcome measures and indicators]

[(46AH) Guidance: measures and indicators

(1) The Scottish Ministers shall issue guidance relating to the provision of communication equipment, and to support in using that equipment, under this Part.

(2) Guidance issued by the Scottish Ministers under subsection (1) above shall include and set out:

(a) The quality outcome measures and indicators against which the Scottish Ministers intend to measure progress towards meeting any quality outcome targets set in relation to the impact of providing communication equipment and support on the lives of those persons receiving such equipment and support; and

(b) Details of how they otherwise intend to assess whether the provision of communication equipment, and support in using that equipment, has met, or made progress towards meeting, any quality outcome target included in the guidance.

(3) Guidance may be issued generally or for particular purposes.

(4) Before issuing or revising guidance, the Scottish Ministers must consult persons to whom it relates”]

[Annual Report: Duty to publish an annual report]

[(46AI) Annual Report

(1) The Scottish Ministers must, as soon as practicable after the end of each reporting year, prepare and publish a report ("an annual report") about the provision of communication equipment, and about the provision of support in using that equipment, under Section 46A of the 1978 Act, in that reporting year.

(2) An annual report prepared and published under subsection (1) above shall include details of the following for the reporting year-

(a) The total number of persons requiring communication equipment under Section 46A of the 1978 Act;

(b) The total number of persons who were provided with communication equipment under Section 46A of the 1978 Act;
(c) The total number of persons who were provided with communication equipment under Section 46A of the 1978 Act, and with support in using that equipment;

(d) The total number of persons who were provided with communication equipment under Section 46A of the 1978 Act to replace existing communication equipment;

(e) Confirmation of the cost of communication equipment, and support, provided under Section 46A of the 1978 Act;

(f) An estimate of the total number of persons who, identified in the reporting year as requiring communication equipment under Section 46A of the 1978 Act, were provided, and were not provided, with this equipment in the reporting year;

(g) Confirmation of the average length of time required to provide communication equipment and support to a person, from the date in the reporting year at which the person was identified as a person requiring communication equipment and support under Section 46A of the 1978 Act, to the date in the reporting year when the person was provided with this equipment and support;

(h) An update on the progress made towards meeting any quality outcome targets set in relation to providing communication equipment and support, and its impact upon the lives of those persons receiving such equipment and support; and

(i) Any other matters relevant to the provision of communication equipment and support under Section 46A of the 1978 Act.

(3) The Scottish Ministers must, as soon as reasonably practicable after publishing an annual report under subsection (1) above, lay a copy of the report before the Scottish Parliament.

[Duty to make arrangements for an independent evaluation]

[(46AJ) Independent evaluation]

(1) No later than 2 years after this Act has come into force, the Scottish Ministers must make arrangements for the independent evaluation of the provision of communication equipment and support under this Part of the Act.

(2) The evaluation (carried out by an independent person) shall analyse and assess:

(a) The extent to which the Scottish Ministers have complied with their duties under Section 46A of the National Health Service (Scotland) Act 1978;

(b) The quality and effectiveness of the communication equipment provided by the Scottish Ministers under Section 46A of the National Health Service (Scotland) Act 1978;

(c) The quality and effectiveness of the support provided to persons using communication equipment provided under Section 46A of the National Health Service (Scotland) Act 1978; and

(d) The impact which the communication equipment and support provided under Section 46A of the National Health Service (Scotland) Act 1978 has had on the lives of the persons requiring such equipment.

(3) The Scottish Ministers must, as soon as reasonably practicable after receiving a report of the evaluation, lay a copy of the report before the Scottish Parliament.

[Duty to ensure arrangements are put in place to secure feedback]

[(46AK) Annual feedback survey]

(1) The Scottish Ministers must, as soon as practicable after the end of each reporting year undertake, or make arrangements for the undertaking of, a feedback survey of those persons who were provided with communication equipment, and with support, under Section 46A of the 1978 Act in that reporting year.
(2) The survey shall seek the feedback and views of those who were provided with communication equipment, and with support, under Section 46A of the 1978 Act on the following issues and matters:-

(a) The processes and procedures involved in assessing a person’s communication needs, and in ensuring that they received appropriate communication equipment and support to meet those needs;

(b) The quality and effectiveness of the communication equipment received;

(c) The quality and effectiveness of any support received in using the communication equipment;

(d) Areas in the provision of the communication equipment and support which would benefit from the provision of additional, or alternative, communication equipment and levels or types of support in using such equipment;

(e) Examples of the provision of communication equipment and support which could be identified as best practice; and

(f) Any other matters relevant to the provision of communication equipment and support.

(3) The Scottish Ministers must, as soon as reasonably practicable after publishing a feedback survey under subsection (1) above, lay a copy of the annual feedback survey before the Scottish Parliament.

[Duty to establish a national voice bank]

[(46AL) Regulations: National voice bank]

(1) The Scottish Ministers must by regulations make such arrangements as they consider necessary to establish a national voice bank to help meet, and to support, the communication needs of any person who has lost their voice or has difficulty speaking throughout Scotland.

(2) Regulations under subsection (1) must not be made unless a draft of the statutory instrument containing the regulations has been laid before, and approved by resolution of, the Scottish Parliament.

(3) Before laying draft regulations before the Scottish Parliament under subsection (1) above, the Scottish Ministers must consult—

(a) NHS Health Boards;

(b) local authorities;

(c) persons who require, or are likely to require, communication equipment and support under Section 46A of the 1978 Act;

(d) organisations working for, and on behalf of, persons who require, or are likely to require, communication equipment and support under Section 46A of the 1978 Act; and

(e) such other persons as they consider appropriate.

(4) For the purposes of such a consultation, the Scottish Ministers must—

(a) lay a copy of the proposed draft regulations before the Scottish Parliament,

(b) publish in such manner as the Scottish Ministers consider appropriate a copy of the proposed regulations, and
(c) have regard to any representations about the proposed draft regulations that are made to them within 60 days of the date on which the copy of the proposed draft regulations are laid before the Scottish Parliament.

(5) In calculating any period of 60 days for the purposes of subsection (4)(c), no account is to be taken of any time during which the Scottish Parliament is dissolved or is in recess for more than 4 days.

(6) When laying draft regulations before the Scottish Parliament under subsection (1), the Scottish Ministers must also lay before the Scottish Parliament an explanatory document giving details of—

(a) the consultation carried out under subsection (3);

(b) any representations received as a result of the consultation; and

(c) the changes (if any) made to the proposed draft regulations as a result of those representations.

(7) In this Part “national voice bank” refers to a national system through which those who have lost their voice, or have difficulty speaking, are able throughout Scotland to access, and to make use of, voice recordings to be used in communication equipment to support their own communication needs.

[Duty to establish a national data set]

[(46AM) Regulations: National data set

(1) The Scottish Ministers must by regulations make such arrangements as they consider necessary to establish a national voice bank to help meet, and to support, the communication needs of any person who has lost their voice or has difficulty speaking throughout Scotland and who chooses to and can use voice banking.

(2) Regulations under subsection (1) must not be made unless a draft of the statutory instrument containing the regulations has been laid before, and approved by resolution of, the Scottish Parliament.

(3) Before laying draft regulations before the Scottish Parliament under subsection (1) above, the Scottish Ministers must consult—

(a) NHS Health Boards;

(b) local authorities;

(c) persons who require, or are likely to require, communication equipment and support under Section 46A of the 1978 Act;

(d) organisations working for, and on behalf of, persons who require, or are likely to require, communication equipment and support under Section 46A of the 1978 Act; and

(e) such other persons as they consider appropriate.

(4) For the purposes of such a consultation, the Scottish Ministers must—

(a) lay a copy of the proposed draft regulations before the Scottish Parliament,

(b) publish in such manner as the Scottish Ministers consider appropriate a copy of the proposed regulations, and

(c) have regard to any representations about the proposed draft regulations that are made to them within 60 days of the date on which the copy of the proposed draft regulations are laid before the Scottish Parliament.
(5) In calculating any period of 60 days for the purposes of subsection (4)(c), no account is to be taken of any time during which the Scottish Parliament is dissolved or is in recess for more than 4 days.

(6) When laying draft regulations before the Scottish Parliament under subsection (1), the Scottish Ministers must also lay before the Scottish Parliament an explanatory document giving details of—

(a) the consultation carried out under subsection (3),

(b) any representations received as a result of the consultation, and

(c) the changes (if any) made to the proposed draft regulations as a result of those representations.

(7) In this Part “national data set” refers to a national system through which the use, availability and location of communication equipment to support the communication needs of those who have lost their voice, or have difficulty speaking, are recorded, monitored and kept up to date.]

[Directions: duty to co-operate]

[(46AN) Directions: duty to co-operate

(1) The Scottish Ministers may issue directions to service providers where it is necessary for a person requiring support under Section 46A of the 1978 Act to receive communication equipment, and support in using that equipment, from more than one service provider.

(2) Directions issued by the Scottish Ministers under subsection (1) above shall include directions to service providers about the need to co-operate with each other in relation to the efficient and effective use of their resources (including in particular buildings, staff and equipment) in pursuance of providing equipment and support to a person under Section 46A of the 1978 Act.

(3) A service provider must comply with a direction given to it under this section.

(4) Directions under this section must be in writing”.]

[Functions of service providers]

[(46AO) Guidance: functions of service providers

(1) The Scottish Ministers shall issue guidance relating to the functions of service providers which provide, or secure the provision of, communication equipment, and support, to persons under Section 46A of the 1978 Act.

(2) Guidance issued under subsection (1) above shall include guidance relating to the functions of service providers providing communication and support to such persons on a national, regional and local basis.

(3) Guidance may be issued generally or for particular purposes.

(4) Before issuing or revising guidance, the Scottish Ministers must consult persons to whom it relates.]

[Interpretation of New Part (Provision of Communication Equipment and Support]

[(46AP) Interpretation

In this Part-

“a communication equipment and support service pathway, refers to the levels, and types, of advice, care and support which must be put in place to meet the communication support needs of individuals
with communication disability in any given community, and include details of how such provision shall be reviewed”.

“communication equipment” refers to equipment which provides pictures, gestures, symbols or photographs, as well as to digital technology equipment, including voice output communication aids and associated software and a voice bank and related accessories.

“Health Board” means a board constituted by an order under section 2(1)(a) of the National Health Service (Scotland) Act 1978.

“Local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994.

“national data set” refers to a national system through which the use, availability and location of communication equipment to support the communication needs of those who have lost their voice or have difficulty speaking are recorded, monitored and kept up to date.

“national voice bank” refers to a national system through which those who have lost their voice or have difficulty speaking are able throughout Scotland to access, and to make use of, voice recordings to be used in communication equipment to support their own communication needs.

“reporting year” means a period of one year beginning on 1 April.

“support” refers to facilitating access to communication equipment provider services, to arranging and undertaking an assessment of need for communication equipment and support services, to assistance in selecting appropriate communication equipment, to purchasing that equipment and any necessary software, access to voice bank and other accessories as appropriate, to providing support in using that equipment as required by the individual, to access to voice bank as appropriate, to support for insurance and maintenance of equipment and the review, and replacement, of communication equipment as required, to the availability of trained staff, carer training and support and IT support services which support and enhance the use of that equipment and to any related matters.

“the 1978 Act” means the National Health Service (Scotland) Act 1978.]