COSLA

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

Introduction

1. COSLA is committed to ensuring that we deliver high quality, seamless and person-centred health and social care services to ensure people are able to live independently in their communities and are empowered to look after their own health and wellbeing. Within this context, Scottish local authorities recognise the importance of communication to individuals’ physical and mental health, and their independence – the ability to easily communicate with others is something that many of us take for granted, however for those who experience difficulties the impact can be significant.

2. COSLA therefore welcomes the opportunity to provide evidence to support the Committee’s consideration of a proposed duty to provide communication equipment (referred to hereafter as augmentative and alternative communication or AAC). However, it is important to highlight that the call for evidence was issued on the 8th January, with a deadline of 20th January. This gave just 8 full working days for us to consider the amendment, seek views from our professional advisors, and secure political sign-off of our response.

3. It has not been possible to do all this within the time allotted, meaning the proposed amendment has not been given sufficient professional or political consideration. We have therefore been clear about areas that we feel require further exploration and hope that the Committee will take account of this in its deliberations.

The need to amend current legislation

4. Information provided by the Scottish Government and circulated with the Committee’s call for evidence indicated the intent of amending the Bill is to clarify the duties within the 1978 NHS Act (specifically those in section 37), so as to “[make] the duty to provide or secure provision of voice equipment and associated support explicit within the 1978 Act”. However, there is no robust case presented as to why this clarification is required, and why it is required for AAC services which have been the subject of recent lobbying activity, but not for other services covered by the same section of the NHS Act.

5. While some may argue that clarifying legislation is a legitimate end in itself, we would assert there needs to be clear evidence that the lack of clarity is causing problems, and that these problems can be fixed by legislating. The main problems highlighted by Scottish Government are delays in accessing provision; however there is no suggestion that these delays are caused by a lack of legislative clarity. In fact, the Scottish Government’s own evidence identifies the cause of the problems as “the multi-agency nature of the service, the unpredictable nature of the service demands, and access to capital spend”.


6. The proposed amendment will not address any of these issues, and while we are sympathetic to the policy desire to improve AAC provision, we are not yet persuaded that this amendment is an effective means to securing the desired improvements. What is clear, is that we need better information about current levels of investment, delivery arrangements, and current and projected demand, so that we can better-understand the challenges and develop an appropriate improvement response.

Financial impact

7. We agree with the Scottish Government that while the proposed new duty would fall on the NHS, it will impact on other partners such as local authorities and the third sector due to their involvement in the provision of these services. However, we would challenge the assumption that there will be no significant financial implications. Previous experience tells us that increased awareness of rights and entitlements leads to increases in demand; indeed that is the rationale behind carrying out awareness-raising campaigns and other publicity efforts. Increased demand will put pressure on local authority services, due to their involvement in assessment, referral, support, and in some cases purchasing.

8. Where services are delegated to Integration Joint Boards (IJBs), increased demand will lead to difficulties for IJBs in balancing their budgets as they seek to manage the impact of an increased burden over time. This will in turn put pressure on the NHS and local authorities as parent bodies with a duty to ensure IJBs are provided with sufficient resource to deliver the functions delegated to them.

9. The continued application of clinical decision making is presented as evidence that there will be no impact on the numbers requiring AAC; however this assumes that all those requiring AAC are currently seeking it (therefore already subject to that clinical judgement). This does now allow for people who could benefit from AAC but have not had those needs properly identified, or equipment sought, now seeking it as a result of publicity surrounding the Bill.

10. The size of this potential demand is not known. While the Scottish Government’s evidence submission identifies the eligible population, there is no data on current uptake of AAC and therefore we cannot identify the extent of unmet need (and therefore potential new demand). Given that it is estimated that around 26,500 people in Scotland could benefit from some form of AAC, and we do not know how what proportion of them are already in receipt of a service, it cannot be said that there will be no increase in demand.¹

11. Furthermore, the presence of clinical decision-making does not mitigate against ‘upgrade’ demand for better equipment, or faster access, from those who are eligible for that and already in receipt of a service.

12. When the potential for new demand (and ‘upgrade’ demand) is considered alongside equipment costs which vary considerably but can extend to tens of thousands for one individual, it is clear that a great deal of further work is required before any assumptions about financial impact can be made.

Research and monitoring

13. The Committee may wish to seek assurances from Scottish Government that further work to identify the profile of the eligible population, current levels of use, current spend and projected demand going forward, will be gathered in order to inform more accurate estimates of financial impact.

14. Should this prove impossible within the required timescales, we would call on the Scottish Government to work with NHS Boards and local authorities to monitor actual demand and associated costs. Should actual costs exceed those estimated, we would expect the Scottish Government to meet those costs, in line with the commitment that any new duties or policies Scottish Government wishes to introduce will be fully funded.

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