

## **SUBMISSION FROM COSLA**

### **Introduction**

1. This paper sets out COSLA's response to the Scottish Parliament's Education, Lifelong Learning and Culture Committee on the Autism (Scotland) Bill. It highlights the fundamental commitment that all councils have to bringing positive changes to the lives of all those who are affected by an autism spectrum disorder (ASD). However, it also emphasises our clear view that, while councils have a strong appetite for developing a more strategic and coordinated response to autism issues, this can be achieved without new legislation.

### **General comments**

2. Effectively meeting the needs of all people with ASD requires packages of care that are flexible and able to cope with low level support requirements as well as more complex needs. Councils have made progress in this regard in recent years, with services now being delivered in a more integrated and personalised manner. Existing policy and guidance documents have also made positive changes to develop specialist and semi-specialist provision to support and integrate services for people with ASD. These recognise that certain children and adults require specially tailored provision, and that services must be provided by appropriately trained, qualified and experienced staff.
3. However, while there is recognition of current areas of good practice, and a range of valuable tools and guidance, there is scope to improve the coordination of these, and to ensure that they are applied more appropriately. As such, there is now widespread agreement from within local government that there is scope for greater strategic direction in relation to delivery of services for people affected by ASD.
4. We believe that there are three primary challenges in taking this strategic approach forward. First, it is critical that we deliver long-term social care solutions that enable people with a range of disabilities, including ASD, to access services that provide them with control and independence, and do this in a joined up and equitable way. Second, we need to continue to develop local capacity to support the needs of those with autism. While there is scope for greater strategic direction, local flexibility will be crucial to meet different patterns of needs, reflect issues such as rurality and remoteness, and accommodate different service delivery structures across the country. Third, and crucially in the current economic climate, we must ensure that whatever strategy is delivered recognises the significant funding pressures currently facing councils and does not place an additional burden on them in this regard.

## **Autism (Scotland) Bill**

5. COSLA has a fundamental concern with the principle of delivering a national autism strategy by means of legislation and, as such, we are not supportive of the Autism (Scotland) Bill. We believe that placing a specific autism strategy in statute risks distributing resources inequitably, and without necessarily building a sustainable and strategic longer term solution that addresses the needs of people affected by autism. In our view, the risk is that the Bill could lead to resources and activity being governed by a narrow set of statutory processes, rather than being directed according to the delivery of improved outcomes. This could lead to particular difficulties for councils in the context of budgets that are already stretched and there is a fear that money could end up being directed away from other support services and that any benefits for people with ASD could be at the expense of people with other disabilities.
6. We believe that at its core, the public sector must be configured in such a way as to enable the delivery of better outcomes for individuals. We believe that local agencies can work best when they have the flexibility to determine service models which reflect local demographics and circumstances. Councils and their community planning partners have worked hard to establish single outcome agreements for each of Scotland's 32 local authorities, and we therefore need to be sure that a national autism strategy gives local agencies appropriate freedoms to determine what works best for their local communities in delivering these outcomes.
7. With that in mind, we do not believe that setting statutory duties that compel local authorities and others to work in certain ways will naturally equate to better outcomes for people with ASD and for wider client groups. Indeed we must guard against any unintended consequences of such duties, which have the potential to lead to resources, time and focus being diverted away from delivering effective support and interventions, or lead to individual partners focussing inwardly on processes, rather than delivering in partnership.
8. It is also important to consider the context in which we are currently working. It is clear from the demographic data that increased demand on council services will continue into the future, and will impact on councils' capacity planning, the pace of policy implementation and the commissioning and procurement of services. Given the increasing financial pressures being faced by councils, and the changing delivery framework for social care (including the development of self-directed support) effective change will require a long term approach that seeks to address social care issues "in the round". We are concerned that the Autism (Scotland) Bill retains a narrow focus which could well hinder councils in this regard.

9. Furthermore, while we accept that there needs to be greater consistency and equity across Scotland in meeting the needs of people with autism, the creation of statutory guidance on autism provision creates a hierarchy which goes against the grain of the Education (Additional Support for Learning) (Scotland) Act 2004, and the recognition that all additional support needs are important and that councils must work to address them. The inclusive approach of the 2004 Act means that there is no one "category" or "deficit" which is more or less important, but that the systems set up to support those with needs should be generally robust, be resourced and, crucially, be subject to quality assurance. We are anxious that highlighting one area of need — no matter how strong the lobby or organised the protest — risks focusing on one client group at the expense of others and could lead to continued inequitable distribution of resources.

### **Non-legislative strategy**

10. Notwithstanding such concerns, COSLA is still wholeheartedly committed to the delivery of a strategy by means of a non-legislative route. That is why we have enthusiastically supported the work that has been initiated and coordinated through the National ASD Reference Group.
11. The reference group consists of individuals with autism, carers, and professionals from COSLA, local authorities, Scottish Government, NHS and a range of third sector organisations that have expertise in this field. The group has already had a positive impact on the quality of life of many people affected by autism over the last eight years, having taken forward the recommendations in the Public Health Institute of Scotland (PHIS) needs assessment of those with ASD. As such, it is well placed to progress the development of a strategy.
12. Members of the reference group have been working together in recent months in order to draft a cohesive strategy which brings together the various strategies and policies that are already in place, and to do so in a way that reflects the work also in motion to review and update the provision of learning disability services as part of the 'Same as You'. Our belief is that this work will lead to improved outcomes for individuals, and to much more effective resource management than would be achieved through a relatively mechanistic legislative approach.
13. We also believe that this approach will ensure that a national autism strategy will reinforce rather than compete with other government initiatives. There are already strategic approaches that can be built on in this regard. The national recommendations in the PHIS Needs Assessment Report, *More Choices, More Chances, Same as You*, and *Towards a Mentally Flourishing Scotland: Policy and Action Plan 2009-11* provide advice to councils about supporting vulnerable groups and tackling associated barriers to employment, respite, care and access to services. Indeed, where councils fail in their duty to meet needs, there is

now a legal mechanism in place, the additional support needs tribunals - to support dissatisfied parents. Getting It Right For Every Child (GIRFEC) is also currently being adopted by health and local authorities and is designed to ensure that children are central to the assessment and support services required, irrespective of disabilities or health conditions. Similarly, the autism toolkit already provides clear support and guidance to ensure that needs are met, and its implementation is also subject to scrutiny.

14. Having reflected on what is already in place, the reference group has made excellent progress in a relatively short period of time in order to produce a draft national autism strategy. *Towards an Autism Strategy for Scotland* is currently being consulted upon through the Scottish Government's consultation process. The draft strategy sets out the vision that all people on the autism spectrum are "respected, accepted and valued by their communities and have confidence in services to treat them fairly so that they are able to have meaningful and satisfying lives". It attempts to provide a comprehensive review of current and best practice in this regard and also suggests various means of building on these foundations. These building blocks are encapsulated in the 26 recommendations that have been suggested by the reference group.
15. COSLA is currently consulting with our member councils in order that we can provide a comprehensive response to the consultation on behalf of local government. Likewise, the ASD reference group is working hard to ensure that the draft is disseminated as widely as possible and that all stakeholders have the opportunity to express their views on its content. In this way, it is hoped that the final strategy will be fit for purpose and will appropriately address gaps in provision that currently exist, thus significantly improving outcomes for people affected by autism.
16. On a practical level, this strategy is also preferable to the legislative route because it is expected that it can be finalised within a relatively short timeframe, with a final draft anticipated by the turn of the year. Our understanding is that even rapid passage of the Bill through the parliamentary committee process will mean that Royal Assent is unlikely before summer 2011, and that an autism strategy by such means will not therefore come into force before summer 2012. Given the unfolding financial landscape, such a delay in developing a strategic approach to autism is unlikely to contribute to councils' ability to improve outcomes in the short to medium term.

## **Conclusion**

17. We have significant concerns that a strategy by means of the Autism (Scotland) Bill will not be an effective or equitable means of improving outcomes for people affected by autism and, in any case, believe it to be unnecessary given the excellent progress that has been made on the development of a strategy through the national ASD reference group. We also believe that placing an autism strategy in statute could fragment

the ability of government and service providers across local government to take a strategic approach to the wider care and support needs of their communities. At a time of burgeoning resource pressures, our concern is that legislation will lead to resources and activity being governed by a narrow set of statutory processes, and thereby directed to people with autism at the expense of other client groups. Furthermore, while the Bill has been identified as being cost neutral for local authorities, we would expect there to be considerable scrutiny of this assertion during the passage of the Bill.

18. Moreover, we are concerned that legislation in this area could set a precedent for a raft of legislation to be brought forward for other client groups where a significant lobby exists. Such an approach could jeopardise councils' capacity to deliver for their entire populations by effectively ring-fencing resources. These concerns are shared by the Scottish Government, which also favours the development of a strategy out of statute.
19. It is therefore the clear view of COSLA that a comprehensive and effective autism strategy should be delivered through the national ASD reference group. COSLA is fully supportive of the development of this strategy and, as such, will be responding to the current Scottish Government consultation on the draft strategy document that has been produced. We strongly believe that this will ultimately be the best means of improving outcomes for people affected by autism.

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