



The Scottish Parliament

Health and Community Care Committee

24th Meeting, 2001

Wednesday 31 October 2001

The Committee will meet at 9.30 am in The Chamber, Assembly Hall, The Mound, Edinburgh

1. The Scottish Budget 2002/3: The Committee will take evidence from—

Susan Deacon MSP, Minister for Health and Community Care, John Aldridge, Director of Finance, Scottish Executive and Trevor Jones, Chief Executive, NHSScotland

2. Community Care and Health (Scotland) Bill (Stage 1): The Committee will take evidence from—

Neil McConachie, Chief Executive and Douglas Philips, Director of Priority Services & Joint Planning, Association of Health Boards Chief Executives

Councillor Rita Miller, Spokesperson on Social Work (South Ayrshire), Jim Dickie, Director of Social work (North Lanarkshire), Lorna McGregor, Legal Consultant and Anil Gupta, Policy Advisor, COSLA

Eddie Egan Scottish Health Committee, Dougie Black, Scottish Local Government Committee, Joe Di Paola, Scottish Organiser (Local Government) and Jim Devine, Scottish Organiser (Health), UNISON

3. Reports (in private): The Committee will consider a reporter's report on organ donation.

Jennifer Smart
Clerk to the Committee
Room 2.5

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The Following papers are attached for this meeting:

Agenda Item 1

Paper from the Adviser: 'Total Need and the Cost of Health Care' **HC/01/24/1**
(Private)

Paper from the Adviser: ' The Performance Assessment Framework for English Hospitals' (Private) **HC/01/24/2**

Agenda Item 2

Written Submission from Association of Health Boards' Chief Executives (NOT YET RECEIVED)

[Written Submission from UNISON](#)

HC/01/24/3

[Written Submission from COSLA](#)

HC/01/24/4

Agenda Item 3

Report from Dr. Richard Simpson MSP, on Organ Donation (Private) **HC/01/23/4**

<p>Agenda item 2</p> <p>Health & Community Care Committee</p> <p>31 October 2001</p>
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COSLA

**COMMUNITY CARE AND HEALTH BILL - STAGE 1 BRIEFING
FOR HEALTH AND COMMUNITY CARE COMMITTEE
BY COSLA 31 OCTOBER 2001**

Introduction

COSLA welcomes the Community Care and Health Bill as the outcome of extensive work aimed at bringing about a more co-ordinated and coherent delivery of care services. The Bill will bring about a range of new consumer rights to users of care services and carers. The key challenge is going to be providing sufficient good quality services for older people (including those with dementia) to maintain them whenever possible in their own homes in the community. The Bill extends the system of direct payments to all social care services and introduces deferred payment of care home fees. COSLA welcomes the intention to safeguard service users from becoming impoverished through using the care system. We also welcome the proposals to give rights to carers to have their needs assessed in their own right and to receive support up to eight weeks after their caring role ends.

This legislation will present a considerable challenge to all stakeholders in the community care field, particularly those planning, commissioning and providing services. For Councils the Bill will add to the other major policy shifts in social care in Scotland, requiring detailed practical arrangements to follow them through. Local government will need to put in place the mechanisms, financial systems, contracts and human resources required to deliver free personal care. Many aspects of the Bill will require significant planning. While COSLA endorses the majority of its provisions, it will be necessary for the Scottish Parliament to prioritise the issues raised so that these can be introduced within a tenable and phased set of timescales. Due regard is needed of both the planning and implementation periods needed to achieve the necessary change and of the levels of resources available.

Governance Issues

COSLA believes that the best means of ensuring that new monies are used to realise the policy aims of the Bill across Scotland is for the Scottish Executive to develop outcome agreements with local authorities. COSLA opposes the ring fencing of resources as this reduces flexibility to develop services that better reflect local needs and circumstances and increases bureaucracy. Ring fencing has increased significantly in the social work and education areas in recent years.

COSLA recognises the need for a greater degree of consistency and transparency in local authorities' charging regimes for care services. While it is only right to emphasise the need for consistent charging, the interests of those using care services will best be met by establishing a clear framework which balances a consistency of approach with transparency behind the charges made. This would allow the flexibility needed to respond to the variable and often complex local circumstances. Further work is now

required (so that we can respond to the Care Development Group's recommendations) before our guidance can be issued to councils. This work will be completed in the near future to allow implementation by the appropriate deadline.

COSLA would be unhappy if the Executive issued statutory direction on charging as this could result in ill-defined and un-resourced commitments being passed down to local government requiring us to find resources from already stretched social work budgets. While we acknowledge that the issue of mandatory guidance on charging does not arise until an assessment of COSLA's guidance has been undertaken, COSLA would want the terms of the evaluation of such voluntary guidance to be discussed and agreed as soon as practical.

Joint strategy, planning and working

COSLA welcomes the proposal to develop further joint working between councils and health boards. We also welcome the maintenance of the distinctive functions, responsibilities and accountabilities of the two types of organisation. These need to remain clear both to the agencies and to the public. While the arrangements should be governed by some form of contract or partnering agreement, it is much preferred to the overly bureaucratic and less accountable 'care trust' model being developed in England. We welcome the Executive's intention not to impose a single model of joint working on local authorities and health agencies. However, no case has been made for the creation of a further power of ministerial direction which could have a perverse effect on joint working arrangements.

To be successful joint working requires positive encouragement, rather than the use of the power of direction. If the reserve powers are used, successful joint working will be difficult to enforce, attempts to do so are likely to undermine the flexibility to respond to local needs and circumstances. New powers of intervention are being developed in relation to Community Planning and Best Value to develop a comprehensive and coherent framework of intervention. This is expected to be the subject of the draft Local Government Bill due to be published by early December this year. Clarification is required on how the Joint working provisions of this Bill link in with the proposals to create new powers and vehicles for jointly managed services under the proposed new power of "community wellbeing". Local authorities need to be consulted on how best to revise current planning requirements – and particularly in relation to Community Planning - so that the joint working arrangements are harmonised, ensuring what is being done is sensible and coherent.

COSLA welcomes the Executive's proposal to relax the rigid accounting regime concerning pooled expenditure, to be replaced by a focus on outcomes by the partners. We also believe that the full amount of NHS long stay resources freed up by bed closures should be part of the pooled budget. As the area develops so will views about need and the arrangements to meet them. While COSLA understands why some would want the definitions of personal and health care included in the primary legislation (and a clear difference established between these and other basic living costs), we believe it more appropriate to establish such definitions in the regulations which should accompany the Bill.

Financial Issues

Whilst agreeing with the proposal, in principal, to increase the choice of care homes, COSLA has concerns about the possible financial consequences of this together with other measures in the Bill, as they have cost implications. Some of these could be brought into force later than April 2002 without undermining the intention of the Bill to bring about free personal and nursing care.

COSLA has major concerns about the deferred payments part of the Bill. This will require local authorities to make loans to fund care arrangements, the intention being to open up care options to those who own their own homes while delaying the disposal of their property. Local authorities are expected to bear the costs of arranging the loans to be secured against the value of the house. In a reverse of a traditional mortgage councils would create loans (using the house as security) to meet the individual's revenue contribution to their living costs. To do this, without being able to charge any interest, councils would have to meet the costs of higher levels of borrowing to allow for this activity. The number of loans and the length for which they are to run, are both likely to increase over time. COSLA does not believe this is an area appropriate for councils to engage in. Also, contrary to the Executive's assertion in the policy memorandum for the Bill, there is no budget for this purpose in the three-year local government settlement (2001/02 – 2003/04). It may make more sense for the Executive to put in place a Scottish scheme or for local authorities to arrange facilities with private finance providers for individuals.

For those who wish to manage their own care arrangements, the direct payment of care costs by local authorities is likely to be a popular measure. COSLA is pleased to support this form of 'empowerment', but believes the local authority role needs to be well defined. There is a danger that we could be viewed as managers of the contractual arrangements (possibly with non-accredited providers) and be drawn into complex legal issues. COSLA is also concerned over the longer term problems faced by some who self-fund their care and enter into private placement arrangements in higher cost establishments. Problems come to a head when private resources are exhausted, people are impoverished and the local authority is then expected to meet their higher care costs. On rare occasions there may be good reasons for a council approving its meeting above the prescribed maximum care costs. However, the collapse of such private arrangements would cause both distress to the care recipient and leaves the local authority budgets exposed. COSLA believes adequate safeguards are needed to ensure that the arrangements can be financially sustained for as long as they are needed.

Carers are key partners in the provision of care and should be recognised in this role, including being fully consulted on issues concerning the person cared for and the carer. In supporting the principle of free services to carers, the costs of such services will need to be met through additional funding being provided to local authorities.

Human Resources

There is a complexity behind many of the provisions of the Bill that have considerable human resources implications for their implementation. As an example, direct payments create practical difficulties that will need to be overcome to ensure they are an attractive option for many individuals. These scheme needs to be developed in an ordered way within a framework which protects the recipient, allows choice, facilitates flexibility and social inclusion but also maintains stability of current service infrastructure and financial arrangements. The task of implementing such a complex scheme by an April deadline is quite unrealistic. Its development will require extensive consultation, estimates of the year on year financial implications of the scheme and funding to be set aside. Processes and procedures will need to be developed to support and safeguard recipients and the local authority. Staff will need to be trained to manage risk assessment, advocacy support, brokerage and contract management requirements.

Another area with considerable personnel issues will be the establishment of joint working arrangements where pensions, pay scales and other service conditions will need to be aligned. It should be noted that personnel professionals from local authorities and health boards are committed to developing a sustainable employment framework for the joint working.

COSLA
October 2001

Agenda item 2

Health and Community
Care Committee

31 October 2001



Health and Community Care (Scotland) Bill

Scottish Health and Community Care Committee
UNISON Scotland Submission
October 2001

I. INTRODUCTION

- UNISON welcomes the opportunity to address the Health and Community Care Committee.
- We congratulate the Scottish Executive and MSPs for the introduction of free personal care.
- Strategies contained within the bill are a radical change from present practices and could impact on up to 100,000 staff and various health and local government services.
- Clear managerial structures need to be established.
- A protocol between the Executive, trade unions, health and local authorities need to be agreed.

II. UNISON'S POSITIVELY PUBLIC CAMPAIGN

UNISON supports the modernisation and change needed to provide better, more responsive public services. This process must be based on the following five principles:

- **Effective delivery**
High quality public services are best delivered by well trained, directly employed staff who put the needs of service users and the community first.
- **Adequate funding**
Modern and high quality services need long term investment. This means investment in infrastructure, in information and communications technology, and in the training and development of the workforce.
- **Equality of access**
Public services should be responsive to the needs of all members of the community. There should be no discrimination in service provision, but equality of access for all people, based on their needs. High quality, accessible services are the best guarantee against social exclusion and against more affluent members of the community weakening public services by making their own arrangements.
- **Fairness at work**
High quality services and good employment practices go hand in hand. Staff are the public services' greatest asset and they must be treated fairly.
- **Partnership at work**
Genuine partnership between government, service users, the community, employers and trade unions is central to ensuring a process of continual improvement of public services.

III. JOINT RESOURCING – (PAPER DATED 5 SEPTEMBER 2001)

Elements of joint resourcing will include:

- Staff
- Money
- Equipment
- Property

From:

- Local Authorities e.g., Social Work, Housing
- LHCC's
- Primary Care Trusts
- Acute Trusts
- *Scottish Homes*

I. BENEFITS TO USERS/PATIENTS

- Remove barriers within care journey, e.g., reduce delayed discharges
- More consistent, more integrated services at locality level
- More single points of access to community care services
- Better use of resources e.g., reduce cost-shunting
- More holistic planning and delivery of services

II. 6 ACTION STEPS BY PARTNERS BY 1 APRIL 2002

- Agreement on joint resources (staff, money, equipment, property)
- Agreement on joint management arrangements
- Agreement on governance and accountability framework
- Agreement on priorities and targets
- Agreement on performance and measures
- Local Partnership Agreement document

III. WILL INCLUDE SERVICE SUCH AS:

- older people's nursing homes and residential care beds
- domiciliary services – personal care, domestic tasks, laundry, shopping, equipment services.
- day centres and day hospitals
- continuing care NHS beds and assessment beds
- housing for older people
- primary care resources – community nurses
- occupational therapy services for older people
- equipment and adaptation budgets and services
- elements of NHS acute services
- *others as locally agreed*

IV. JOINT BUDGETS

Aligned Budgets

- money brought together, 'aligned' by agencies
- use of money agreed by all agencies
- responsibility for money remains with each individual agency

Pooled Budgets

- money put into single pot
- for agreed shared aims and services
- loses its identity
- one agency plays host to pooled fund

V. JOINT MANAGEMENT

Elements can include:

- joint high level board or committee
- senior management group
- new partnership body

- single manager at high level and/or locality level

VI. JOINT MANAGEMENT ARRANGEMENTS

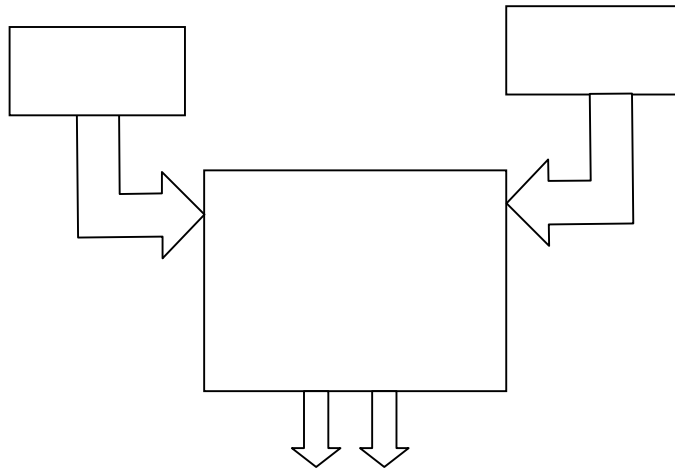
Three models in Scotland:

1. Joint Management Structure
2. Partnership Body, Type A (aligned budgets)
3. Partnership Body, Type B (pooled budget)

1. Joint Management Structure

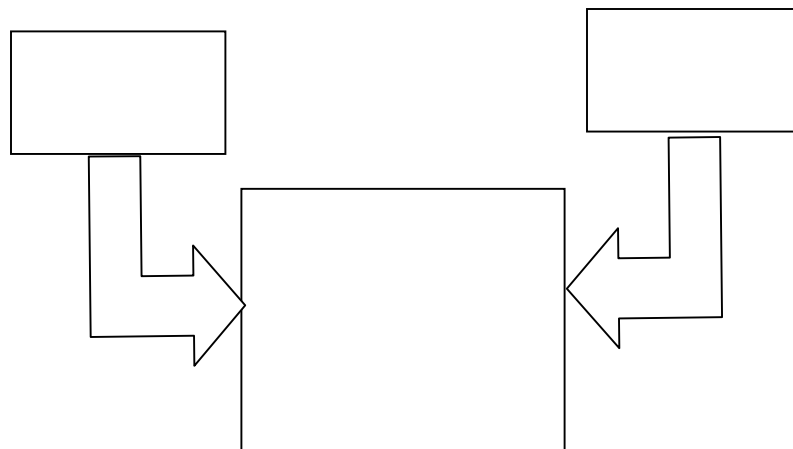
Dumfries and Galloway, Glasgow LD

- Aligned budgets
- Not an independent legal entity
- Staff employed by own agencies but both agencies share joint management arrangements, e.g., *committee/board, management group, single manager*



2. Partnership Body Type A

e.g., “Care Together” in Perth and Kinross



- Aligned budgets – not pooled budgets

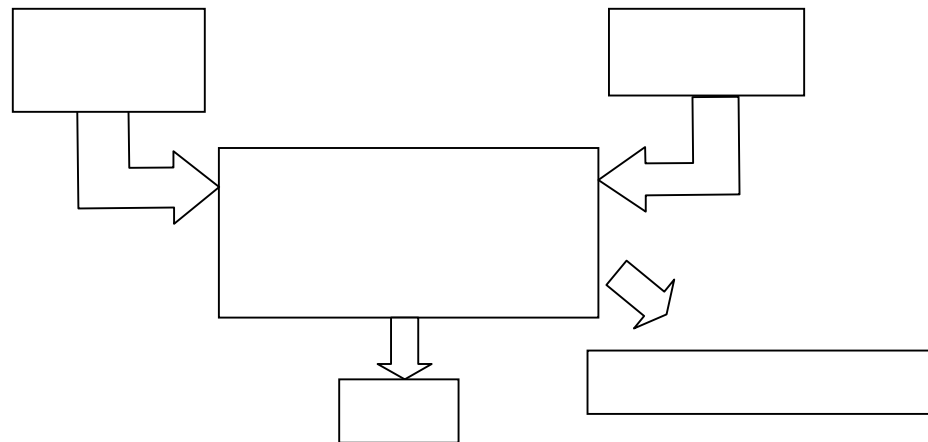
- Not an independent legal entity
- Has a distinct “badge” or identity
- Cannot employ staff in its own right

3. Partnership Body Type B

e.g., Manchester Mental Health Partnership

Pooled Budgets

Has a distinct badge or identity with more decision making powers



- Not an independent legal entity
- Cannot employ own staff in its own right.
- ***Staff must be employed by one or other statutory agency, usually the host partner.***

X. HR ISSUES

- Management structures based on secondment – not sustainable in short or long term.
- Rapid Response Team – staff doing the same job on different terms and conditions.
- Proposed management structure – unclear, not focused.
- Professional accountability – potentially lacking.

XI. OPTIONS

The Scottish Executive, Health Department, local government and appropriate trade unions need to plan and agree the HR Strategy to properly manage and co-ordinate these new services. The following are options to consider:

a) New Employer

- Scottish Structure.
- Scottish Parliament can set minimum standards.
- It would standardise terms and conditions.
- It would reassure transferring staff.
- Model employment practices.
- May lead to the standardisation of terms and conditions in health and local government in the long term.

b) Staff Employed by the NHS

- Minister responsible for Health and Community Care
- New Boards from 1 October have significant local government input.

- Maintain professional and managerial accountability.
- It would standardise terms and conditions.
- Model employment practices.

c) Staff Employed by Local Government

- Democratic accountability.
- In line with current statutory responsibilities.
- Power of well being.
- It would standardise terms and conditions.
- Model employment practices.

XII. SUMMARY

The proposals contained within this bill have major implications for health and local government. There needs to be a wider debate and agreement on the HR Strategy that is going to be adopted by the Scottish Executive in the medium to long term.

For further information please contact:

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