

General Update

Purpose

1. The purpose of this report is to update members on areas of current work which do not feature elsewhere in the agenda.

Recommendations

2. The Executive Group is invited to:
 - i. Agree that COSLA officers progress work on the obesity strategy with the intention that it is to be a joint SG/COSLA strategy but to seek confirmation of this once more is known about the Scottish Government objectives from the new Executive Group and;
 - ii. Note the issues which exist around the potential for further national regulation on Carers with regards to eligibility criteria and other 'matters'. Agree that the COSLA Spokesperson raise these with the Cabinet Secretary as per the established COSLA political position on this;
 - iii. Note the delay in the publication of the Mental Health Strategy and that the mandate for sign off remains with the COSLA Spokesperson. Agree that COSLA express concern to the Cabinet Secretary that we are now nearing Purdah and it would be unacceptable for a delay beyond March 13th;
 - iv. Note and agree that COSLA officers continue to explore issues raised around free personal nursing care, the 12 week disregard and the financial status of self – funders; and
 - v. note the remainder of the report.

Carers

3. The Carers Act (Scotland) places significant new duties on local authorities to provide carers' assessments and support those who have eligible needs, and is scheduled for enactment from April 2018. The Act contains a significant number of Ministerial powers to make regulations on a wide range of matters, including eligibility criteria, the scope and content of carers' support plans, and assessment timescales for those caring for the terminally ill. In the lead up to enactment, attention is turning to developing regulations and guidance on these, and other, 'matters'.
4. Member councils have been concerned that there is significant potential for unintended consequences in other parts of the system should these regulations result in an overly-prescriptive approach which limits councils' ability to support carers (and those they care for) flexibly, and in line with the personalised, outcomes-focused approach to which we are committed. This approach would also undermine local decision making and accountability, and potentially put an unaffordable and substantive financial burden on the system

Mental Health

5. Members will recall that COSLA Leaders agree to delegated sign-off arrangements for the national Mental Health Strategy, to fit with planned publication dates. Accordingly, a subgroup of the Executive met on 11th January to consider the strategy. While members were satisfied with the general direction of travel, key issues remained regarding inappropriate policy direction and service commitments in relation to functions delegated to Integration Authorities. Members also felt there was a need to significantly tighten the strategy, which had become lengthy and disjointed due to having multiple authors. It was agreed that

members would be content to endorse the strategy, subject to those issues being addressed, and that COSLA's Health and Wellbeing Spokesperson should deal with final sign-off on that basis.

6. Civil servants were largely agreeable to making the required adjustments, however this is taking longer than anticipated due to additional asks from the relevant Minister, resulting in a further delay to publication. It is therefore proposed that we express concern to the Cabinet Secretary as we are now approaching Purdah and a delay beyond March 13th would be unacceptable.

British Sign Language

7. Mark Griffin MSP's Private Members British Sign Language (BSL) Bill was unanimously enacted by the Scottish Parliament on 17 September 2015 and received Royal Assent on 22 October 2015 resulting in the British Sign Language (Scotland) Act 2015. The Act requires the Scottish Government to produce a National BSL Plan and for public bodies, including local authorities to produce their own plans. The first National BSL Plan to be laid before Parliament by October 2017. Local authorities and other public bodies must publish their own plans within one year of the National Plan. In producing their local plans, local authorities will require to take account of the National Plan.
8. The Scottish Government formed the BSL National Advisory Group (NAG) and tasked this group with developing Scotland's first National BSL Plan for Scottish Ministers. COSLA are members of the NAG. The NAG is co-Chaired by a senior Scottish Government Officer and a Deaf Blind representative. Membership includes a further 9 Deaf BSL representatives and 1 hearing parent of a Deaf child. The NAG also has representatives from COSLA, Scottish Government, Scottish Councils Equality Network (SCEN), Police Scotland, Creative Scotland, the Scottish Funding Council and the NHS who represent all the public bodies who will need to develop their own plans in due course.
9. The NAG has met on 5 occasions and has developed a draft National BSL Plan which will be consulted upon from 1 March 2017 to 31 May 2017. On Health, Mental Health and Social Care the Scottish Government commitments in the plan are focused on increasing access and support for Deaf & Deaf/Blind individuals. COSLA will respond to the consultation exercise positively, whilst noting that any specific Scottish Government commitments will need to be fully funded. We would encourage members to share their local authority responses with us.

Charging Guidance

10. The COSLA Non-residential Charging Guidance for 2017/18 was presented to Leaders at their meeting last Friday. The covering report included a recommendation that War Disablement Pension and compensation payments made through the Armed Forces Compensation Scheme should be disregarded from the financial assessment for non-residential social care services. This responds to concerns that Scottish Ministers have about armed forces veterans in Scotland being disadvantaged in terms of the calculation of their care charges compared with their counterparts in England.
11. However, the Charging Guidance Working Group recognise that this policy introduces an inequality between military and non-military pensioners. Having said that views secured from council officers indicate that the numbers involved are relatively low and acknowledge that the policy would eliminate the inequality which exists with veterans in England, where these incomes are already disregarded.
12. Agreement by Leaders to this proposal would result in the following amendment to paragraph 7.14 of the guidance.

7.14 War Disablement Pension and compensation payments made through the Armed Forces Compensation Scheme should be disregarded from the financial assessment for non-residential social care services.

13. The Scottish Government have identified £5m in the budget settlement for 2017/18 to enable councils to disregard both these sources of income from financial assessments for social care charges in both residential and home care settings.
14. A number of other improvements were recommended by the Charging Guidance Working Group for inclusion in this revision of the guidance. These included clarification of the need for accurate and timeous communication with people receiving social care services. The guidance has also been updated to reflect the annual uprating of the DWP benefits used to set the charging thresholds; for the second year the UK Government Policy restricts increases to Pension Credit Guarantee alone.

Disregard / Self Funders

15. It is estimated that some two thirds of the 33,300 residents in nursing and residential care homes in Scotland are publicly funded. The remaining third (known as self-funders) pay fees to providers. Self-funders are eligible to receive a contribution to their Free Personal and Nursing Care from the local authority the care home is located in. If an individual is determined by social care staff to require a care home placement and takes up residence in a home the placing local authority must carry out a financial assessment to determine what, if any contribution they can make to their care home fees. In the first 12 weeks of residence if an individual has property this is disregarded in determining what if anything they can afford to pay. After 12 weeks, if the financial assessment determines they have sellable property which would make them a self-funder they would be treated as such. If through paying self-funder fees an individual's assets fall below an agreed threshold they would cease to be a self-funder and the local authority would be responsible for paying their fees.
16. The 12 week disregard and when someone becomes and ceases to become a self-funder are issues which can cause misunderstanding between local authorities and care home providers. COSLA Officers have held a series of discussions with care home representatives; Scottish Care who have agreed that COSLA pose a series of questions to local authority contracts staff. The questions will seek to secure more information about current local practice around temporary funding arrangements that are agreed if a resident has not sold their home after the disregard period. We will explore the views of these staff as to whether they would welcome more national consistency and some form of guidance at a National event which we are hosting on 6 March 2017.

Obesity Strategy

17. The Scottish Government is committed to producing an obesity Strategy this year. Government officials have begun work to develop the strategy and have sought early discussion and collaboration with COSLA on its content and joint status. Without substantive detail on the proposed content, COSLA officers are at this point asking members to agree that in principle, the strategy should be joint, not least because many of the ways in which we can prevent obesity are within the gift of local government and also because of the political implications should the strategy seek to propose any legislation or regulations.