Guidance for Commissioners during Covid-19 Response

Introduction
This guidance has been adapted from advice published by Local Government Association (LGA), Association of Directors of Adult Social Services (ADASS) and Care Provider Alliance (CPA) in England. It has been produced for commissioners in Scotland to provide information on pressures on social care providers arising from the COVID-19 response, and to put forward ways in which commissioners can alleviate these pressures.

The guidance details a number of concerns that have been raised by providers and some of the action's commissioners will be considering locally to resolve these issues. The aim of this guidance is to support collaborative working to protect the resilience of the social care sector and ensure they remain operationally and financially viable.

We are aware that a number of Partnerships have made local arrangements with Providers in their area and this guidance is not intended to cut across those arrangements.

Collaboration and Communication
Providers have raised a number of concerns in relation to the uncertain operational environment. They will need the ability to raise issues and get answers quickly, and to be able to solve problems collaboratively, both with commissioners and with each other.

This can be supported by ensuring that providers have a contact to feed information to commissioners quickly. Some local areas have set up one email address to ensure that information can be picked up in light of any staff absence.

Providers need access to relevant national information, national bodies such as the Care Inspectorate and Provider representative bodies such as CCPS and Scottish Care are supporting this flow of information.

Locally requests for information place an additional burden on providers and should be as streamlined and coherent as possible. Consideration should be given to holding virtual briefing sessions to prevent disruption to operational matters.

Current SSSC flexibility regarding registration and redeployment between services

On 18th March SSSC set out the following notes on their current registration system:

- People working in social service roles in nurseries, care homes, care at home and housing support services, residential childcare services and school care accommodation service can currently work for six months without being registered.

- The provider is satisfied those redeployed have the appropriate skills and experience for the work.
- Workers registered to work in one kind of service can be immediately redeployed to work in another kind of service without any need to change their registration status with the SSSC. They would currently have six months in which to register to work in a different service
    - For example, a care home worker could be immediately deployed to work in a care at home service,
    - Similarly, a healthcare worker can be redeployed immediately into a registered care service and would currently have six months before there was a requirement to register with the SSSC.

Scottish Social Services Council (SSSC) and NHS Education for Scotland (NES) are producing guidance for care settings that may require use of volunteers and redeployed workers due to staffing challenges as a result of the spread of Covid-19. It will set out what employers need to think about and put in place to support the safe delivery of services.

Business Continuity Plans
Good business continuity plans should therefore be in place however, commissioners should be mindful of placing any additional burden on providers unnecessarily by requesting these. Routine requests for providers' BCPs should be avoided, unless there is an intention to offer support in relation to issues being reported.

There should also be a recognition that some aspects of the plans rely on support from other organisations within the Local Resilience Partnerships, providers should be included in local resilience planning. This will ensure they are kept up to date with developments in their local area and wider local impacts such as transport or school closures which could affect operations. We are aware that good progress has been made in this regard in relation to planning for EU Exit and this should be built on.

Workforce availability
Providers will face higher workforce absence rates, through medically-recommended self-isolation, sickness and family caring responsibilities. Other factors such as school closures may exacerbate this issue. The redeployment of staff will be crucial during this period and work is ongoing nationally to support this.

Care providers should put plans in place to manage their services if a proportion of the workforce are unwell. Providers should support each other in local areas by allowing staff to be deployed across different care settings or between care providers. There should be no financial penalty for providers working in this way.

Rapid adjustment of support
Support will have to be rapidly adjusted. People will be admitted to hospital, care visits changed to meet the most urgent needs and some homecare visits will take longer due to infection control precautions and the availability of staff.

This means that rapid decisions will need to be taken about appropriate adjustments of care packages. It will also increase providers' costs as it will require extra management time to make these adjustments. There is also likely to be a higher ratio of travel to contact time in home care due to the rapid reorganisation of rounds and rosters.

There are also some places where homecare contracts use electronic call monitoring (ECM) to create a system of a “pay-per-minute” billing or to round visit times into defined bands have a built in ceiling on upwards adjustment of hours, which may make it more difficult to make these rapid adjustments and ensure that providers are paid for them. “Pay per minute” also carries a significant risk of reducing the financial viability of shorter homecare visits (particularly those under 30 minutes). Commissioners should mitigate this firstly by agreeing with their providers how to adjust packages in a timely and non-bureaucratic way, without requiring prior authorisation, but within agreed limits.

If commissioners choose to retain decision making about changes to care packages themselves, they will need to have enough staff at the right level available to make these decisions rapidly and have simple processes in place. Commissioners should consider extra costs incurred from extra administration and increased travel times and visit lengths in homecare services, and for extra administration within care homes.

Contract Monitoring
Contract monitoring should be proportionate at this time as the first priority is continuance of service. Local contract monitoring processes should be flexed and relaxed where possible to minimise disruption to providing this strategic objective.

If tendering exercises are underway, maximum flexibility on this is recommended, for example, by extending deadlines for returns or postponing the exercise to ease pressure on providers at this difficult time.

Several areas have already begun to communicate with providers about uplifts for the Real Living Wage 2020/21. It is recognised that for commissioners and providers alike, staff shortages and work underway to undertake operational processes may prevent the uplifts for Real Living Wage being applied at this time; it may therefore be prudent to delay this process, but note that any uplift applied in due course must be backdated to April.

The Care Inspectorate are also taking a proportionate response to scrutiny and regulation to minimise the burden on services during this period.

Cashflow
Invoice generation will become an increasingly complex activity however it can be essential to ensure continued payment for frontline staff. Providers will be focused on delivering support to people and managing sickness absence in their own workforce.

Retrospective reconciliation
This will need to be handled transparently and through discussion, rather than unilateral imposition. Reconciliation is appropriate when actual levels of support differ markedly from what was planned. Commissioners should be mindful of all the extra costs incurred by providers during this period, and of problems they may face in reducing variable costs in such a volatile operating environment. Providers should be mindful that, where actual support levels are significantly below plan, commissioners may have needed to fund support elsewhere.

Homecare services
Any reduced cashflow may especially impact home care providers, if they require to submit itemised invoices of hours delivered for each person. Nonpayment in relation to

cancelled visits, invoice disputes and delays in processing could have a serious negative impact on providers' cashflow.

Local arrangements should be put in place where there are identified critical issues such as inability to provide the service due to workforce self isolation requirements. On a service by service basis pressures should be identified and solutions sought for example by payment of planned service and agreement on meeting any gaps in payment and service delivery later.

Additionally, some providers could be delivering extra care at short notice to people discharged from hospital, or where regular informal support ceases to be available for example due to unpaid carer illness. Payment approval methods should be revisited to ensure that support is delivered as a priority with later reconciliation if required to actual support.

Residential care

Ensuring care homes can continue to admit residents where it is clinically safe to do so is a priority. However, if care homes stop admissions because it is unsafe to admit residents this could affect occupancy levels which in turn may impact on their sustainability. The National Care Home Contract is a spot purchased contract with a payment made per resident per week, it does not contain any clauses to protect providers from financial unsustainability during this period. Consideration should be given to making payment based on planned care to ensure they remain operationally viable.

Children's Services

Services commissioned by local authorities are often for the most vulnerable children and young people in our communities. These services may be part of a Scotland Excel Framework or they may be commissioned directly by individual local authorities and the guidance outlined for other services within this document applies to children's services.

Continuity of care and relationships are a priority for those already living in or being supported by these services, and it is also important that should new referrals or care and support packages for children and young people be required during this period it remains possible to do so. These could include residential, daycare, care at home, secure care, foster care, kinship care and support services provided by an agency.

Payment approval methods should be revisited to ensure that support is delivered as a priority with later reconciliation if required to actual support. As per the SSSC guidance (see above) staff can be redeployed across commissioned services allowing for mutual aid across providers.

Early Learning and Childcare

Across local authorities there are a wide variety of current offers of funded provision, and all LA have differing approaches to the commissioning of Early Learning and Childcare provision.

The Scottish Government have confirmed that they will continue to fund local authorities for statutory provision and any early phasing of expanded hours that children currently receive, early learning and childcare services when services close or children are unable to use funded places due to the pandemic.

Where private or third sector ELC settings, including childminders are closed or children are unable to attend due to the pandemic, local authorities should continue payments to for funded places for the duration of the closure, to ensure that local ELC capacity is retained to ensure sustainability for the future delivery of ELC.

Local authorities may wish to base these payment on the children currently recorded as accessing a Funded ELC place as at the date of closure and local authorities may wish to seek comfort from an ELC provider that they will use ELC funds received to pay staff.

Sick-pay
Providers face increased cost pressures due to higher sickness absence rates among their workforce: they have to pay staff Statutory Sick Pay (SSP) or make sickness payments at a higher level than SSP because they have a contractual sick pay scheme (also known as an 'occupational scheme'), which offer workers payments above the basic minimum amount of SSP, which is £94.25 per week.

When emergency legislation is passed, employers' liability for SSP will start at day one rather than day four, and requirements for workers to self-isolate will further increase financial pressures. Given that in virtually all cases providers will have to backfill sickness absence to ensure continued delivery of support, this represents a real cost pressure on providers.
Please note that **employers are unable to reclaim payments for SSP from Government**, except for some temporary arrangements announced in the Spring Budget, which will only be available to organisations with 250 or fewer employees.

Providers record additional costs incurred through sickness cover and backfill costs to allow for discussion with commissioners about how to mitigate the impact of this.

Infection control
Separate guidance is available in relation to infection control in residential and community settings.

COVID 19 Clinical guidance for nursing home and residential care residents about Coronavirus (COVID-19).

Health Protection Scotland Guidance

COVID-19: Information and Guidance for Social or Community Care & Residential Settings

Those funding and arranging their own support ("self-funders")
Providers will be continuing to provide support to people who have arranged and are paying for their own care. Sudden cancellations of visits may put additional financial pressure on providers. Requests from commissioners about information from providers about people who fund their own care may be particularly sensitive and should be accompanied by clear advice on why so doing would not be a breach of the General Data Protection Regulation (GDPR).

Use of non-contracted providers
Commissioners who contract with approved providers at fixed prices may also be looking to other non-contracted providers in the local area, as demand for care and

support peaks. Consideration should be given to the potential impact of paying contracted providers at a lower rate than providers which are off-framework of off-contract. Commissioners can mitigate this though careful consideration of the prices it pays for care and the available capacity in the local market and should be mindful of longer term impact on the market if there is more use of non-contracted providers