

# Proposed Bill to abolish charges for non-residential social care

## Page 2: About you

Please provide your name and other contact details. Please provide at least one means of contacting you (address, e-mail or telephone) - e-mail is our preferred option. (NB: you will be given the option shortly to specify whether it is your name or your organisation's name that is to be used, and you may also request anonymity or confidentiality for your response.)

Your name (mandatory)

[REDACTED]

Name of your organisation (if applicable - otherwise leave blank)

CoSLA

Your Job Title (if applicable - otherwise leave blank)

[REDACTED]

Contact details (please provide at least one of: email, telephone number, postal address) (mandatory)

[REDACTED]

Please indicate below whether you are content for your response to be attributed to you by name (either your name or that of your organisation)

I am content for my response to be attributed to my organisation

## Page 4: Your comments on the proposal

Q1: Do you support the principle that non-residential social care services should be available free at the point of delivery to those who have been assessed by a relevant professional as requiring them (as is the case within health care)?

No

### Please explain your answer

No. COSLA supports the principle that anyone assessed as needing a non-residential social care service should receive it regardless of their financial circumstances. We also understand that these services need to be paid for and that there are three main sources for this; general taxation, local taxation and individual charging. With the council tax freeze during the past eight years we have seen these options effectively limited to two. We believe that as a society we need to agree the best way to pay for social care services now and into the future. If we are to make sensible decisions we cannot consider charging in isolation. So we see no merit, either practically or politically, in further constraining these options by prohibiting charging for these services. We do not agree with the comparison with health care because there are a number of health care services that do attract a charge.

### The co-payment principle

The principle of co-payment is critical to non-residential social care charging and should remain. It encourages ownership, personal responsibility and empowers a person's ability to make choices with regard to the care they purchase. It is also Local Government's view that it is fair to expect people who can afford to pay a charge for non-residential social care services to do so.

Q1: Do you support the principle that non-residential social care services should be available free at the point of delivery to those who have been assessed by a relevant professional as requiring them (as is the case within health care)?

The Scotland against the Care Tax campaign uses a human rights based argument to assert that "Having to pay to exercise basic rights like to get out of bed discriminates against disabled people". We would agree that access to care is fundamental to the realisation of human rights, but we do not think that this is inconsistent with a co-payment model (in which services are paid for partly by the state and partly by the individual receiving the services). For the argument that social care charges are a barrier to people realising their human rights to hold, campaigners would need to demonstrate that even very wealthy disabled or frail older people are being systematically prevented from accessing care because of a price barrier. This has not been the case to date.

In determining affordability, it is important to acknowledge that Local Government operate financial assessments that apply income thresholds which actively seek to ensure that those who cannot pay for services do not pay. An important element of this process involves 'income maximisation' which seeks to ensure that individuals receive all the DWP benefits at correct rates to which they are entitled. There is evidence in some councils that the additional benefit income gained is greater than the income collected from non-residential social care charging. These anti-poverty measures have the full and continued support of local government and COSLA are working with Scottish Government to consider what more could be done in this regard – subject to the appropriate funding arrangements.

#### Comparisons with health

One of the arguments made in support of the Bill, and abolishing charges generally, is that social care services should be treated in the same way that we treat health care i.e. free at the point of need. It is argued that it is illogical - and potentially conflicts with equality and human rights laws - to have different approaches to cost and entitlement based on which organisation provides the service.

Extending the principle of 'free at the point of need' to social care has also been described as a necessary change to support an integrated approach to service design and delivery in health and social care.

However this argument is misleading because:-

- both the NHS and local government services have elements that are free at the point of need (e.g. primary care, emergency treatment, personal and nursing care for people age 65 and over);
- both comprise elements that require payment of a charge (e.g. dental treatment, glasses, chiropody/podiatry, prostheses, aids and appliances, day care, meals on wheels, community alarms and telecare, laundry services); and
- Both have provision to help those who cannot afford to pay for those services (e.g. free eye tests, NHS glasses vouchers, NHS Low Income Scheme, Financial Assessment).

To suggest that the NHS is entirely free and that social care needs to be free of charge to come into line with the NHS and respond to people's needs equitably is inaccurate. A universally free approach to social care is also unsupported by evidence that it would improve people's wellbeing in terms of the agreed national health and wellbeing outcomes.

There is need for honesty with the general public and people receiving care about how services are paid for and which specific services attract a charge and why. There is also a need to reflect again on the individual and relative affordability and impact of universal services which currently exist in health and social care if we are to redesign our services with sustainability in mind.

Q2. Do you agree that legislation is a necessary and appropriate means of addressing the issues identified?

No

#### **Please explain the reasons for your response**

No. Whilst government politicians may find legislation attractive as a means to secure uniformity and control, it can be inflexible to the needs of local communities and requires significant long-term financial commitment which in the current infancy of integration may not be appropriate. So at this time, and until

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we better understand the issues and can agree on principles, we do not believe that legislation is necessary or appropriate. We would suggest exploring a range of more flexible options in line with a recognition of the need for local approaches to securing local single outcome agreements.

Q3. The current system has resulted in varying charges in different areas for the same level and quality of service. Do you agree that there should be consistency across Scotland?

No

**What do you think the advantages and disadvantages would be?**

We acknowledge that there is legitimate variation across Scotland due to local circumstances e.g. transport costs, sparsity, economies of scale etc. and agree that unwarranted variation needs to be eliminated. However we would also point out that services (and therefore charges) vary by necessity because, whilst on the face of it some services seem the same, there is legitimate variation in terms of service specification (i.e. of what is included) and this variation is driven by local circumstances and individual need.

So we do not agree to the imposition of a uniform set of charges which would require a uniform set of services. Having said that we do agree with the need for a greater degree of consistency, particularly in terms of user engagement and financial assessment; this is something which we have made progress toward through work done by the Charging Guidance Working Group.

**Determining charges locally**

The ability councils have to control local budgets and generate local income is an important in terms of the empowerment of local democracy through local fiscal autonomy. The ability to use income raised through charges to invest in social care services is key to providing councils with the flexibility to focus resources on local priorities and needs. Local Authorities are accountable to their communities and the people who use services for the choices they make in this regard and this connection should be actively supported and defended.

As with many other issues, the rhetoric around 'post code lottery' remains popular despite its failure to recognise and take account of the legitimate variation of policies across different council areas. It also fails to acknowledge that guidance and benchmarking information is used by councils to help achieve an appropriate degree of consistency. 'Uniformity' in how priorities are tackled in each area is not appropriate; different problems require different solutions and come with different charging implications. This is consistent with Scottish Government support for the view that local prioritisation, delivery and democracy can work in harmony with national outcomes.

It is our view that any change to social care charging policy and local authority powers could have a significant negative impact on local democratic autonomy. This would be inconsistent with the principle of subsidiarity whereby decisions should be taken as close to communities as possible. Removing the ability of councils to fund services and generate income in this way further undermines the ability of local government to act and prioritise according to the choices determined by local communities and to be accountable for those decisions.

The Scottish Government must understand and acknowledge that uniformity in how priorities are tackled in each area is not appropriate; different problems require different solutions and come with different costs and funding options.

**National direction on rates & charges**

Local Government are against the national direction of charging policies for non-residential social care services for reasons set out in response to question 3. Any national approach which sought to impose uniform fees would be inappropriate, restrictive and potentially detrimental to the viability of the services in question.

However we accept that having a nationally set charging policy is very different from having nationally

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negotiated and agreed arrangements. For example we believe that the charges for residential care homes provided to publically funded residents should continue to be agreed nationally for the time being e.g. through the national care home contract negotiations (NCHC).

In this vein, COSLA recognises the breadth and depth of the challenge facing the Care at Home sector and would wish to work jointly with Scottish Government and Providers to consider what might be needed to support sustainability and remove some of the volatility and risk that currently exists in the sector.

Q4. Should all social care related services be free at the point of delivery?

No

**If you answered Yes, please explain your reasons. If you answered No, please explain which services should be excluded, and why. (Please refer to the services set out on page 7 of the consultation document).**

No. We like to point out that page 7 of the consultation does not list services, rather it sets out categories of service. It will be important to understand what these services are in order to debate this further. Furthermore we believe that the issue of charging should not be considered in isolation and that the debate needs to cover the broader issues associated with how society pays for social care.

Q5. What are the likely financial implications (if any) of the proposed Bill to you or your organisation? What (if any) other significant financial implications are likely to arise?

COSLA understands that there will be a number of implications to local authorities which would follow from an abolition of charges. Resourcing in light of the current Scottish budget and when the UK is in a period of austerity is a key concern. The implication this has for managing demand and balancing the interests of people with high needs and anticipatory /preventative care for people with low levels of need to be thought through if we are to improve outcomes over the short and long term.

#### Funding issues

It is COSLA's long standing position that any new policies or policy changes should be fully funded by the Scottish Government. Beyond this position, there are a number of financial implications around any potential proposal to abolish social care charging that COSLA would seek to highlight.

Should Scottish Government progress any individual policy changes with regards to social care charging they must be fully funded now and into the future. One of the potential implications of abolishing charges may be to incentivise demand for provision. That is to say that demand would grow by virtue of the provision being free and not necessarily as a result of increases in need – as it is argued to have done for example with free prescriptions. If social care charges were abolished, funding them against current demand levels without taking account of future growth in demand might result in underfunding over the medium and longer term.

Abolishing charges in a time of austerity is likely to contribute to a growth in high-cost crisis driven negative demand and poorer outcomes for people in the long term. The Local Government settlement, austerity and growing demand as a result of demographic changes mean that it is increasingly difficult to invest in prevention and early intervention. Abolishing charges is likely to add to this tension unless budgets keep pace with the scale and complexity of demand. If demand grows as described above – both as a result of real need due to demographic change and as a consequence of social care being free - without sufficient investment then costs are likely to be managed through tough local decision making and prioritisation. That prioritisation may result in less prevention activity and this drives 'negative

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demand' within the system in the longer term. This has its own cost implications for the whole of local government.

Q6. What do you think the implications of the proposed Bill are for equality? If it is likely to have a substantial negative implication, how might this be minimised or avoided?

Negative

**Please explain your answer. If you answered Negative, please suggest any ways this impact could be minimised or avoided.**

Negative. Eligibility criteria ensures equality of access to social care services based on need. No-one is ever denied a service which they are assessed as needing and the charge is based on ability to pay. On the face of it abolishing charges might be viewed as having a positive impact in terms of removing the need for disabled people to pay a charge for services which non-disabled people do not need, albeit that disabled people receive a level of financial support to help pay for their care needs. However, should the policy not be fully funded (immediately and into the future) it would contribute to an overall decrease in the capacity to spend on all social care services. On balance this would impact negatively on equalities and would probably outweigh the positive impact the abolition of charges would have because significant numbers of disabled people would not receive the services they need. It is our view that access and affordability of service are where equality is protected not policies which take no cognisance of people's circumstance and financial capacity to contribute.

Q7. Are there any other comments you would wish to make that are relevant to this proposal?

Need for a full open public debate on the future funding of social care.

Local Government believe that a debate on the future funding of social care and health services is overdue in terms of policy and finance. We would welcome the chance to contribute to such a debate with a government that is serious about a transformational change in the way we fund social care and health services in Scotland.

The issue of charging should not be considered in isolation and the debate needs to cover the wider issues and pressures associated with how society pays for social care now and into the future.

How to fund social care should be the focus of collective debate rather than abolishing social care charges. A plethora of analysis including our own work done through the Strategic Funding Review Group in 2011 and 2015, agrees that demographic change will generate a significant gap between supply and demand within the health and social care system over the next twenty years. We are also acutely aware that the cost of social care is increasing as a direct result of the New Minimum Wage and a desire to deliver the Living Wage. There are numerous risks present in abolishing charges in a time of limited and decreasing resource and increasing cost burdens in terms of wages and staff investment.

COSLA would like to take the opportunity to reiterate the need to consider how best to grow and prioritise investment in this area, as well as redesign sustainable provision across the piece. This should be the focus of a joint agenda with Scottish Government. It is our view that rather than discussing social care charging in isolation, there needs to public debate on how we increase the size of health and social care investment over time, and what combination of income streams - state income (generated by general and local taxation) and private income - should be used to support this growth. This would include an understanding of the relationship between social care charges and the future devolved benefits including disability and carers' benefits.