FINANCE COMMITTEE

AGENDA

20th Meeting, 2002 (Session 1)

Tuesday 29th October 2002

The Committee will meet at 10.30am in the Chamber, Assembly Hall, The Mound, Edinburgh to consider the following agenda items:

1. Mental Health (Scotland) Bill (in private): The Committee will consider lines of questioning for agenda items 2 and 3.

2. Mental Health (Scotland) Bill: The Committee will take evidence on the Bill's Financial Memorandum from:

   Dr James Dyer, Director, Mental Welfare Commission for Scotland;

   Dr Lindsay Burley, Chair, NHS Scotland Board Chief Executives' Group.

3. Mental Health (Scotland) Bill: The Committee will take further evidence on the Bill's Financial Memorandum from:

   Jim Brown, Head of Public Health Division, Scottish Executive;

   Colin McKay, Manager of the Mental Health (Scotland) Bill Team, Scottish Executive;

   Andrew Mott, Mental Health (Scotland) Bill Team, Scottish Executive.

4. Items in Private: The Committee will decide whether to consider the following items in private at its next meeting: lines of questioning on the Draft Budget 2003-04 and the Financial Memorandum for the Homelessness etc. (Scotland) Bill; and the draft report on the Financial Memorandum for the Mental Health (Scotland) Bill.

David McGill
Clerk to the Committee
The papers for this meeting are:

**Agenda item 1**

Paper from the adviser

**Agenda item 2**

Mental Health (Scotland) Bill

Explanatory Notes

Policy Memorandum

Submission from Mental Welfare Commission for Scotland

Submission from Dr Lindsay Burley

Submission from Royal College of Nursing Scotland

Submission from Clackmannanshire Council

Submission from Falkirk Council

PRIVATE PAPER
MENTAL WELFARE COMMISSION FOR SCOTLAND

SUBMISSION TO FINANCE COMMITTEE OF THE SCOTTISH PARLIAMENT

MENTAL HEALTH (SCOTLAND) BILL – FINANCIAL MEMORANDUM

29 OCTOBER 2002

The Financial Memorandum makes provision for the Mental Welfare Commission for Scotland under 2 separate headings. Under the heading “Ongoing Costs from 2004/05” there is an allowance of £0.7m. Under the heading “Start-up Costs – Additional Costs of IT Infrastructure for the Mental Welfare Commission” there is an allowance of £1m in total split between years 2003/04 and 2004/05. On this occasion I am pleased to say that the Commission is content with the financial provision indicated.

1. **Ongoing Costs Associated with the Bill**

1.1 The Commission prepared a detailed business case for its role in the new Mental Health Act in March 2002 and submitted this to the Scottish Executive Department of Health. This was based on the Scottish Executive Policy Document “Renewing Mental Health Law” and has proved to be accurate in terms of the current and promised content of the Bill in relation to the Commission. This business case is available on request.

1.2 We noted that the Commission would have the following increased duties and responsibilities under the proposed Bill:

   1.2.1 Broader enquiry responsibilities including publishing reports on enquiries and follow-ups to enquiries.

   1.2.2 Broader visiting responsibilities including unannounced visits, prison visits and visits in the community.

   1.2.3 Broader scope of Commission approved second opinions (the range of situations in which a second opinion doctor appointed by the Commission will be required will increase).

   1.2.4 Visiting patients subject to Conditional Discharge and community-based Orders.

   1.2.5 Remitting cases to the Tribunal.
1.2.6 Receiving written explanations for emergency detention and following up issues.

1.2.7 Dealing with appeals against restriction of access to mail, phones, email etc.

1.2.8 Monitoring policies on searching and restraint.

1.2.9 Receiving reports on use of police powers and following up issues, monitoring local protocols and training regarding the police and contact with mentally disordered people.

1.2.10 Visiting patients transferred to Scotland.

1.2.11 Raising the profile of the Commission. The Commission currently has a very limited publicity function. We need to extend our publicity and information role and also establish an appropriate quality assurance and training team for professional training and to assist in monitoring implementation of the Act.

1.2.12 Accommodation. Increasing the Commission’s staffing will require increased accommodation space. The cost of this was projected on the basis that increased space will be available in Argyle House. If this proves not to be the case then relocation might prove to be more expensive.

1.2.13 Other costs (including recruitment, furniture for staff etc).

1.2.14 We also identified 2 areas in which there will be modest reduction in costs:

   a. Reduced role in review of detention. It is anticipated that the Commission will retain its power to review and discharge from detention but will use this much more selectively.

   b. Reduction in number of situations where emergency detention is carried out without consent. Currently we enquire into these situations. It is anticipated that emergency detention will reduce under the new legislation with a corresponding increase in direct entry to short-term detention.

1.3 The total figure arrived at as a result of all these various projected costs, in 2001/02 financial terms, was £689,166.

2. **Requirement for a new IT System**

As proposals were advanced for new mental health legislation the Commission recognised that the requirement for information handling which this would give rise to was going to coincide in time with a need to update the Commission’s existing IT system, which has both patient record and business management functions. There
was also a need to improve the business management functionality. The current database system was implemented in May 1998. The Commission has a duty to receive information about a wide variety of interventions under the Mental Health Act and now also the Adults with Incapacity (Scotland) Act 2000 and it produces statistics on these in its Annual Report and otherwise. With a new Mental Health (Scotland) Act coming along from 2004, there will be increased responsibilities to keep and produce statistics and major change to the relevant provisions in the legislation.

The Commission has produced an outline business case with the help of external consultants, Parity Solutions Ltd. This included option appraisals of maintaining the existing system, replacing it with a new stand alone system, a fully integrated system (to allow for work flow, data base systems, document management and web-enabled forms) and more incremental approaches, building towards the fully integrated system. The business case concluded that the current patient medical record system needed to be replaced. The preferred option is to replace the current system with a new fully integrated system “off the shelf”, that is customisable and incorporates work flow and electronic file management and is web-enabled, as a phased modular implementation. The total estimated cost over 2 years is £1,108,000. This includes a contingency estimate of 10%. The outline business case is available to the Committee on request. A Project Steering Group has been set up to oversee the acquisition of a new system and includes representatives from the Scottish Executive Department of Health and also Scottish Executive IT expertise.

Dr J A T Dyer
DIRECTOR
07 October 2002
Submission from Dr Lindsay Burley, Chair, 
NHS Scotland Board Chief Executives’ Group.

Dear David,

Mental Health (Scotland) Bill – Financial Memorandum

The main areas of Resource Implications which give Board Chief Executives some cause for concern are as follows:

1. Training
There are implications for a wide range of staff other than the obvious candidates such as psychiatrists and Mental Health Officers. These include general practitioners and others working in Primary Care, psychologists, nurses and managers. The resource implications arise from the need to release staff, many of whom work in areas experiencing recruitment difficulties and subsequent staff shortages.

2. Numbers of available specialist staff
This is the area of most concern to the service. The demands of the new legislation, welcomed as the right way forward, will stress further an already stretched service. These additional demands are likely to affect particularly psychiatrists and Mental Health Officers - groups which are experiencing recruitment difficulties. They are likely to emanate from the new Tribunal system and from the new assessment and treatment arrangements. The pace at which the Tribunal system is put in will make a difference to the service’s ability to cope. Clearly there will be a financial implication here; but our main concern is our ability to recruit the appropriate staff.

3. Services
The Bill encompasses one of the key principles of the Millan Report, that of reciprocity. The need to provide the right services at the right time to detained patients has two potential implications in mental health services that may already be creaking. Firstly it may pull resources away from non detained patients in order to comply with the legislation. Secondly, and to a certain extent in contradiction to the first point, it is not realistic to envisage the development of services only for detained patients, when voluntary patients will have similar needs. The inevitable requirement for service improvement will not only have financial implications but also recruitment ones mentioned under (2).

4. Advocacy
This relates to reciprocity. Some comments that I have received suggests that this will be a significant resource issue. Others recognise our need to develop a
range of advocacy services, and accept that there will be a requirement to focus our energies on those for people with mental illnesses.

These comments cover the main points that I have received in my trawl round Board CE colleagues, and I shall be happy to answer the Committee’s questions next Tuesday.

Regards,

Lindsay
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Fax 0131 662 1032
With a membership of over a third of a million, with over 33,500 members in Scotland, the RCN is the largest professional association and union of nursing staff and students in the UK. As such, it is an influential voice for nursing at home and abroad. The RCN promotes nursing interests on a wide range of issues by working closely with Governments, parliaments, unions, professional bodies and voluntary organisations and in the development of health policy.

RCN has an established Mental Health Forum. Members of this Forum have been very vociferous in expressing their concerns about the planned mental health legislation for England and Wales. RCN Scotland has endeavoured to create a Scottish Mental Health Forum bringing together community psychiatric nurses, academic nurses and psychiatric nurses working in both primary and hospital settings and engage them in consultation.

**Comments on Financial Memorandum**

RCN Scotland has serious concern that insufficient funds are identified for production, delivery and evaluation of training. The start up costs of £250,000 to cover developing a code of practice and production of training materials is a particularly small budget. What’s more a budget of £750,000 to cover all non-Local Authority staff training needs is also woefully inadequate. RCN Scotland estimates that this amount alone would be needed to cover the training requirements for the approximate 7,500 nursing staff in Scotland. This is calculated by one training day for 7,500 staff in groups of 20 at approximately £800 per day for two trainers would cost around £300,000. If venue, on costs, catering and most importantly back-fill costs to allow nurses to attend, this would come to about another £300,000. Obviously therefore a budget of £750,000 is woefully inadequate. It is also important to note that the production of training materials should be complimented by awareness raising materials, materials for nurses in training, nurses who wish to return to practice and to support other aspects of professional development.

RCN Scotland is also keen to establish that training costs should be identified on a recurring basis since nurses and other health professionals have a requirement for continuing professional development. We consider this a very important issue since some of the aspects highlighted by previous MWC reports allude to the need for ongoing training for nursing and other staff.
Clackmannanshire Council’s Response to the Financial Costs Associated with Local Implementation of the Mental Health (Scotland Bill)

Background

The Mental Health Bill Implementation Plan lists the purpose and scope of the Bill and describes the purposes of introducing the new Act. There has been considerable consultation on the Bill and, in general, it is welcomed as more efficient and effective mental health legislation, especially in conjunction with the implementation of the Adults with Incapacity Act.

Local authority inputs to meeting the needs of those with mental health problems cover a diverse client base (dementia, schizophrenia, brain injured, offenders, drug & alcohol misusers etc.) and are provided directly, and by outsourcing services i.e. voluntary sector services. A 1995 study indicated that around ½ million people (one in 7 of the population) have some kind of problem. However, only around 60,000 are in receipt of assistance.

Interventions for such a diverse client group must be flexible and responsive to assessed needs, with more complex conditions requiring a greater range of intervention, and thus cost. In the case of those with more complex needs, and who would be expected to fall within the scope of the ‘Community Order’, typical interventions will require assessment & follow-up, day care (day centres/drop-in, home support), domiciliary/residential care, crisis service, education/training/employment opportunities, leisure, advocacy and possibly, respite care.

ADSW's Spending Review 2000 submission argued for mental health services provision to increase as follows:

- by £0.5m in 2001-02 & beyond for SW teams in medium secure units;
- by £2m in 2001-02 & beyond for improving community - based services;
- by £0.5m/£1.0m/£1.5m for Mental Illness Specific Grant from 2001-02;
- and by £6m in 2002-03 & £5m in 2003-04 for essential services e.g. crisis services, child & adolescent services, the Care Programme Approach & legislative changes etc.

Total new investment was therefore estimated at £15m by 2003-04. It was not clear how much of this total might be capital, and ADSW accept that these costings are imprecise.

Against this, the Spending Review delivered a 10% increase in LA provision, including £10m for Carers' services (plus extra provision for short-break services
for carers), £1m per annum for M.I.S.G., and £36m for improving services for people with learning disabilities.

**Current Situation**

The Financial Memorandum associated with the Bill lists the proposed increases in funding under a total Local Authority increase of £13m. from 2004/2005. Clackmannanshire’s share of this would be 1% (£130,000). The memorandum breaks this down as follows:

<table>
<thead>
<tr>
<th>Ongoing Costs From 2004/5</th>
<th>COST £ million</th>
<th>Clacks. Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local Authority Costs (net increase)</td>
<td>13.0</td>
<td>£130,000</td>
</tr>
<tr>
<td>Improvements in the packages of care available to people subject to community–based compulsory treatment</td>
<td>2.0</td>
<td>£20,000</td>
</tr>
<tr>
<td>45 new full-time equivalent mental health officers (Clacks. share = 1.4 M.H.Os)</td>
<td>2.5</td>
<td>£25,000</td>
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<tr>
<td>Improved day care and after care facilities</td>
<td>7.0</td>
<td>£70,000</td>
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<tr>
<td>New duties to support advocacy</td>
<td>0.5 in 2003/4</td>
<td>£5,000</td>
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<tr>
<td></td>
<td>1.0 in 2004/5</td>
<td>£10,000</td>
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<tr>
<td></td>
<td>1.5 in 2005/6</td>
<td>£15,000</td>
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</tbody>
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<table>
<thead>
<tr>
<th>Start-Up Costs</th>
<th>COST £ million</th>
<th>Clacks. Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local authority training</td>
<td>0.700</td>
<td>£7,000</td>
</tr>
<tr>
<td>Transfer of patients onto new orders (unclear whether this is health or local authority)</td>
<td>0.450</td>
<td>£4,500</td>
</tr>
<tr>
<td>Local authority capital expenditure</td>
<td>2.0 per annum for 2 years</td>
<td>£40,000</td>
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</table>
**Advocacy**

As there is already significant pressure for improved advocacy services, and more expected following consultation and during the passage of the Bill the existing estimates for Local Authorities of £0.5m, £1.0m & £1.5m is predicated on sustaining our existing position. If there was to be an expansion of advocacy input, these estimates would be unrealistic.

**New M.H.Os & Training**

The estimate of 45 additional Mental Health Officers may be appropriate. However, if the estimates from the Royal College of Psychiatrists on expected demands falling on their members, are extrapolated to include Mental Health Officers greater involvement, this would point to a need for an additional 10 M.H.Os on top of the estimate of 45.

These new demands follow significant new demands being placed on social workers, M.H.Os and solicitors from local authorities as a consequence of the Adults With Incapacity Act. The £1 million made available to local authorities for implementation of the A.W.I. is universally viewed by local authorities as being insufficient to cover the additional workloads. Not only will the new Mental Health Act place additional demands on M.H.O. services, it will be placing these demands on a service which is less well resourced to meet current demands under the Mental Health Act than it was before the implementation of the A.W.I. Act. This is equally true for local authority legal services.

In Clackmannanshire, one M.H.O. costs £30,000 per annum. Thus the estimate of £25,000 is low.

Existing M.H.Os will require some training on the new provisions, and both the Social Services Council & A.D.S.W. estimate the equivalent of a 3-day course would be required at £500 per head.

Ideally, all existing M.H.Os would be trained prior to the Act's introduction - but there are no funds identified specifically for this in 2003-04.

**Legal & Other Costs**

The continuing uncertainties on expected numbers of applications, appeals etc. make estimating difficult. It is likely that M.H.Os will wish to be represented legally before the Tribunal much more often than has been the case in applications under the '84 Act. Their increased involvement in assessing the need for continued detention and compilation of care plans will lead to circumstances where they will be challenged on their assessments. Research suggests that a higher percentage of patients will attend Tribunal hearings than are willing to appear before a Sheriff court as these will be held in a less intimidating environment. It follows that there will be a higher percentage of
contested cases in which M.H.Os will expect, rightly, that they too have legal representation. Likewise, where more patients are represented, more GPs will be asked to give evidence, another finding of the research.

There is no allowance for these costs in the financial memorandum.

**Intensive Care Packages**

While the numbers are not huge, there are likely to be individuals in need of more intensive, high-cost care services, not all of whom will be subject to compulsion, and so not included in estimated costs.

There are related issues on levels of security, whether detained or voluntary patients, e.g. what levels of measures, checks or controls are acceptable on patients, and on staffing levels. These will impact on Local Authority care services, and staff responsibilities and duties. Estimates point to care package costs ranging from a lower level at £25k to intensive at £70k per annum. A rough average estimate of potential numbers and costs across Scotland could be 40 cases per annum requiring intensive care packages @ £50k per annum = £2m.

**Summary**

It can be seen that £13m is unlikely to be sufficient if Ministers expect Local Authorities to deliver the expected statutory requirements, especially when set against rising expectations. In order that the new Act's provisions are delivered as intended at local level, it is important for Local Authorities to be properly resourced. Present services are inadequate for the job.

While we can expect some improvements to flow from the Joint Future initiative, and it is acknowledged that major restructuring of local mental health services is needed, this will take some time to deliver. It can't be expected to happen alongside Local Authorities' preparation for and implementation of the Adults With Incapacities Act, Mental Health Bill and the Joint Future priorities.
Dear Mr McGill,

MENTAL HEALTH (SCOTLAND) BILL

I refer to Mr McNulty’s letter of 30 September regarding the above and would offer the following comments on the assumptions contained within the Bill’s Financial Memorandum:

1. Paragraph 450 estimates the ongoing costs to be £23.1m per annum and states that the costs falling on local authorities will be reflected in their annual allocations. I have two main concerns:

   (a) Paragraph 473 acknowledges that there are a number of uncertainties surrounding the cost estimates and concludes that the margin of error could be £5 million or 21.6%. This is a highly significant sum and it is essential that further research is undertaken to ensure that local authorities are not left to fund the potential shortfall.

   (b) Given the acknowledged uncertainties, I would be interested to know how it is proposed to distribute these funds to local authorities.

2. My colleagues in Social Work Services would question the estimates of current and future costs in paragraph 460 as this can vary quite considerably depending on the needs of individual clients. Paragraph 460 also mentions that this should free-up NHS mental health resources but there doesn’t seem to be any suggestion as to what should be done with them.

Yours sincerely,

[Signature]

Director of Finance

Our Ref. 01/10/BH/FH

cc. Chief Executive

Phil1810