



PE1533/F

COSLA RESPONSE TO PETITION [PE1533](#)

Calling on the Scottish Parliament to urge the Scottish Government to abolish all local authority charges for non-residential care services as under Part 1, Paragraph 1, Subsection (4) of the Community Care and Health (Scotland) Act 2002.

What are your views on what the petition seeks and the discussions that took place at the meeting on 11 November 2014?

In our view the reasonableness of this petition needs to be considered against the broader financial context, a recognition of local democracy, the principle of co-payment and the effectiveness of anti-poverty measures that councils apply within charging regimes.

Financial Context

This petition, which calls on the Scottish Parliament to urge the Scottish Government to abolish all local authority charges for non-residential care services, would need to be taken forward against a backdrop of significant financial strain on social work budgets in particular and public services in general. The latest analysis by Fiscal Affairs Scotland¹ indicates that projections from 2015-16 to 2018-19 have the Scottish Barnett Block grant falling by -1.6% a year in cash terms and -3.5% a year in real terms, which is almost the same rate of decline as experienced in the first two years of austerity. While most of the intended cuts to the capital budget in Scotland happened in the first two years of austerity (2010-11 and 2011-12), for revenue budgets, the biggest cuts are still to come.

These projections come on top of an already difficult financial position. We are moving away from achieving financial balance in many health and social care partnership areas. Last year, there was a significant in-year overspend on social work budgets and a similar pattern is emerging for 2014/15. Drawing on the projections of FAS above, there is little sign that the financial position will improve in the short-medium term – indeed the evidence suggests a worsening of the current position.

Scottish Government analysis suggests that the changing structure of our population could generate a significant gap between supply and demand within the health and social care system over the next twenty years. We therefore need to consider how best to grow investment in this area over the next decade and beyond. Indeed, a number of respected organisations have been exploring how best, as a society, we can meet this demand over time. For example, the King's Fund has recently published its analysis of funding challenges for health and social care services and how we solve them.² All of this considered, our view is that there needs to be a debate about how we *increase* the size of health and social care investment over time, and assess what combination of income streams - state income (generated by general and local taxation) and private income - should be used to support this growth.

¹ <http://tinyurl.com/ppv8shw>

² <http://www.kingsfund.org.uk/publications/new-settlement-health-and-social-care>

The petitioners in this case (PE1533) take the view that only general taxation should be used to fund care and support services, which members may or may not agree with, but at the very least consideration needs to be given to the opportunity cost of moving the balance towards additional state investment at a time of economic austerity and increasing demand.

Local Democratic Control

COSLA has a clear ambition to strengthen local democracy in Scotland and empower and better equip local authorities to improve outcomes. The Commission on Strengthening Local Democracy has produced compelling evidence that central government over the last fifty years has not tackled the huge financial and social costs of inequality and has led to growing disillusionment with the democratic process.³ Across the political spectrum, there is now a growing consensus that it is time to think about not just the powers that come to the Scottish Parliament, but about how power is used through Local Government to benefit Scotland's communities.

COSLA is therefore seeking, among other things, to bring forward options that strengthen local fiscal empowerment. Removing councils' ability to charge for social care would be yet another example of an income generating power being removed from Scottish local government and decided at Holyrood.

The Principle of Co-payment

There is a widely accepted principle of co-payment for health and social care services across most western democracies. Even in the NHS, charges are levied for some services, such as dental care. Other countries, such as Denmark, also use co-payment models for access to primary healthcare.⁴

Co-payment plays an important role in the delivery of social care services. As the SPICE briefing indicates, during 2012/13 local authorities in Scotland received a combined income of around £51.6 million from charges for non-residential social care services. This corresponds to approximately 3.2% of total gross local government expenditure on these services over that period. This allows local government to provide services to a larger number of people – or with higher levels of care input – than would be the case if the £51.6m of income were to be forgone.

COSLA recognises the well-established political and philosophical position which contends that the realisation of human rights depends on access to certain fundamental goods.⁵ For disabled people and frail older people, we would agree that access to care can be important to the realisation of their human rights. The question, however, is whether the charging regime acts as a barrier to access. We did not find the evidence submitted by the petitioners to be compelling in this respect: the abolition of the co-payment model would need to demonstrate, in our view, that even very wealthy disabled or frail older people are being systematically prevented from accessing care because of a price barrier. Otherwise the debate becomes more focused on whether financial thresholds and exemptions are applied appropriately. Our view is that co-payment is therefore not inconsistent with a socially just system of accessing health and social care.

³ <http://www.localdemocracy.info/>

⁴ <http://www.civitas.org.uk/pdf/Denmark.pdf>

⁵ See, for example, Rawls, 1971, A Theory of Justice

The challenge, for us, is to establish the level of wealth below which a person cannot reasonably be charged to access a service that is fundamental to their human rights. There is a debate to be had about whether the anti-poverty measures that we set out in our national charging guidance are effective in ensuring that people who cannot afford to contribute to the cost of their care are not asked to do so. But that is very different from saying that no-one, irrespective of their personal wealth, should be asked to make a contribution towards the cost of their care.

Anti-poverty Measures

Through our charging guidance, COSLA has always sought to ensure that charges are based on the ability to pay. While the petitioners offer a damning portrayal of councils' policies, no council takes 100% of a person's income to pay for the care services people need. Any contribution or charge is based on the amount of weekly income which exceeds the Charging Threshold.

The COSLA Charging Guidance is subject to ongoing review in order to keep pace with developments in social care policy. Annual revisions are also made to accommodate changes in certain DWP benefits which are used to determine a minimum income thresholds. These are used to ensure that people whose income falls below the minimum do not need to pay for the non-residential social care services they use. Most councils will set a maximum limit to the charge levied (for example, 50% of the remaining income); this has been erroneously referred to as a care tax when in actual fact it is effectively an additional allowance designed to reduce any charge for care services even further.

The guidance also includes reference to provision in local policies which allow for local authorities to abate or waive care charges in cases of financial hardship. This may be done in conjunction with local authority welfare rights and income maximisation teams.

COSLA working group on charging for non-residential social care

The Charging Guidance Working Group was set up following public consultation just over three years ago. It is a multi-stakeholder group comprising partners from the Scottish Government COSLA, local authorities and third sector organisations. The group meets between 4 and 6 times each year. Its continuing remit is to engender greater consistency between local charging policies and ensure that the guidance is properly situated within ongoing developments in social care policy.

Whilst accepting different perspectives of the members of the group, the remit has never been about abolishing or reducing charges. The complex policy context for social care means that progress may sometimes seem protracted - but nevertheless significant improvements have been made (see annex). In our view, the guidance has been improved during the last few years as a direct result of all stakeholders directly contributing revisions to the guidance.

The Working Group has undertaken a major plank of work around developing a Standard Financial Assessment Template, which will go a long way to reduce inconsistency. We think it would have the effect of standardising the minimum charging threshold and disregards allowed against a person's income across councils. It would bring clarity and predictability across council areas – which people who are accessing social care support tell us is important to them. Work on the feasibility of this proposal is being undertaken and will be used to inform a report to council Leaders in January. Our first step is likely to be towards agreeing a standard minimum position.

Beyond this, the working group has a clear set of over-arching outcomes which are set out in more detail in the guidance itself. They relate to the consideration of Partners' Income within the financial assessment, Understanding Information, Facilitating Movement, Benchmarking, Financial Assessment, Disability Related Expenditure, Personalisation, and Local Priorities. These matters will be progressed by the Working Group over the course of the next year.

COSLA, January 2014

Annex - Key Actions and Progress

- Commitment to refresh guidance annually
- COSLA Consultation on Charging including issues of principle, practicality, fairness, clarity and consistency including a Public Listening Event.
- Established a multi-stakeholder Community Care Charging Working.
- Councils' charging policies published on the COSLA website.
- Annual survey of Charging Policies developed by COSLA gathering information on local tariff and policy.
- COSLA Leaders agreed an extensively revised Strategy & Guidance, which was coproduced with voluntary sector organisations.
- Established a Community Care Charging Benchmarking Network.
- Amended annual survey to include more information on treatment of partner's income and on how councils consider Disability Related Expenditure.
- Work progressed on the development of Standard Financial Assessment Template.
- Engaged with Care Information Scotland with a view to developing a publically accessible cost of care calculator.