# Delays in hospitals for people with Complex Needs – Discussion Paper

## Purpose

1. To seek wider engagement from professional networks on a focussed piece of joint work in respect of the needs of people who are lengthily delayed in hospital and who have complex needs. This work was commissioned by the Cabinet Secretary for Health and Sport and COSLA Health and Social Care Spokesperson on 23rd April. Since this date a Short Life Working Group (SLWG) jointly chaired by Scottish Government and COSLA has met and established two workstreams;
    - Workstream 1 – Revenue and Capital Funding
    - Workstream 2 – Best Practice

## Background

2. Significant progress on reducing delayed discharges was made by local systems across Scotland during the response to the pandemic. However, there are a number of people (approximately 140) who are very lengthily delayed in specialty mental health and learning disability hospitals.

3. There are models of care and evidenced based solutions that work well in local areas to support people with complex needs. However, the number of delays may require a systemic focus to ensure people do not become delayed and can be supported in more appropriate settings.

4. There are currently approximately 60 people with complex learning disabilities often with a comorbidity associated with autism who are delayed in specialty beds dispersed across Scotland. These individuals may have been previously supported in community placements, but their package may have broken down due to challenging behaviours that carers have been unable to manage or due to lack of planning for crisis.

5. The barriers for this group of individuals in providing an opportunity to succeed in community living include the level of continuous long-term revenue funding; capacity and capability of the provider sector to deliver sustainable care that is adequately financed; appropriate low arousal accommodation; available models of care; available capital funding to develop new models and lengthy transition costs.

6. It has also been highlighted the issue of people placed in specialty beds in England, or in Scottish establishments that are far from their family homes and local communities who may need to be repatriated. As part of the recommendations from the Coming Home report (2018), and an anticipated increase in requests from English authorities and providers for repatriation, both these cohorts of people will also be considered within the scope of this work.

7. In addition, there are approximately 60 people who are lengthily delayed within inpatient mental health specialty beds with different but equally challenging and unique needs who require specialist and bespoke provision.

8. Adults with incapacity legislation will apply in most if not all of these cases, and the concurrent work being led by the Scottish Government's Integration Division needs to be taken into account in the development work of this SLWG.

## Workstream 1 – Revenue and Capital Funding

### Identified Barriers

9. A number of barriers that fall into the remit of this workstream have been identified including;

    - Revenue Funding
        - Historic funding arrangements that may be a disincentive to discharging people living in hospital;
        - Individual package of care may be in excess of £250,000 per annum and requires long term commitment from budget; and
        - Investment in social care.
    - Capital Funding
        - Commissioners feel limited in what they can provide due to lack of specialist providers or models of care within their areas, and they are constrained by access to available capital funding; and
        - Length of contracts may also prevent providers from investing in new models.
    - Commissioning
        - Competitive tendering including some of the timescales used in tendering can be seen as unhelpful in terms of engaging social care providers in a frank and person-centred discussion of good support requirements and challenges;
        - Difficulties in co-producing commissioning and involving families and carers in how services are developed; and
        - Availability of providers with the relevant skills and experience can be variable across Scotland.

10. The group has already considered and discounted an early idea proposed, to look at the Independent Living Fund and a top up scheme for this area of work due to the fact this will not resolve the issue of available appropriate support options in the community. It was recognised that although that mechanism may not be appropriate some of the principles of the scheme could be used for a cost sharing proposal.

### Proposed areas for further work

Revenue Funding

11. In relation to revenue funding three areas have been discussed for further exploration;
    - Cost sharing mechanism;
    - Change Fund approach; and
    - Programme budgeting approach.

*Cost Sharing*

12. A proposal for cost sharing for high cost care packages between local and central Government could be developed using the concept of the ILF scheme to support people to return to their communities. This would need to be a longer-term investment to ensure that ongoing high revenue costs can be met.

13. The eligibility and mechanism would need to be co-produced with finance representatives, including the threshold for eligibility and proportion that national funding would support. In essence, this would set a consistent mechanism for Scottish Government to support some of the costs involved in supporting people in this group to return to their communities and have the care and support that they need; but uphold the responsibilities of local government as set out in the Social Work (Scotland) 1968 Act.

*Change Fund and Programme budgeting approach*

14. It is clear that change will not happen overnight and in some areas a redesign is needed in how services are provided in the local community. In order to facilitate this, a "Complex Care Change Fund" is being explored. This Fund could be available over an agreed period (two years has been suggested) to accommodate the re-provisioning of long-term hospital and out of area care. This could create a powerful lever to enable a longer-term shift from institutional care. The fund would not be intended to replicate the current spend, but rather act as a facilitating mechanism to bring about change.

15. A programme budgeting approach is also being explored and work is ongoing to identify the totality of resource (including hospital budgets) that is currently spent on the group of people within scope for this work. This approach would also consider how to release money from hospital budgets to re-invest in community-based services. The review of integration proposed that "IJBs must be empowered to use the totality of resources at their disposal to better meet the needs of their local population", further highlighting that this must include the use of delegated hospital budgets. The group will do further work to analyse the current spend within hospital settings for the cohort delayed in their discharge.

16. However, it is clear that this approach alone will not resolve some of the challenges and there may be particular issues in relation to the ability to stop using beds and the release of funding, that require to be worked through. A level of provision will be required for people who require hospital admission and the clinical team may need to be retained to provide support within community services.

<u>Capital Funding</u>

17. Strategic Housing Investment plans are the basis for targeting investment through the Scottish Government's Affordable Housing Supply Programme. There are mechanisms in place for this and they have been successfully used in some local areas to develop specialist housing for complex need such as core and cluster models. However, for some people delayed in hospital there is a requirement for specialist housing models and further capital investment may be required to develop new models of care that appropriately meet people's requirements. Consideration also needs to be given in relation to the registration of services and the ability to utilise housing investment money.

18. For new houses and models of care to be developed, local areas would require the appropriate data to support planning and the alignment of strategic commissioning and housing plans with appropriate links to Housing Contribution Statements. There is significant good practice in local areas that demonstrate how housing and care and support services can be developed by reconfiguring hospital and community budgets and staff. Guidance in relation to housing specifications for complex care has been identified as an area for further work to set out the considerations that need to be taken into account.

19. The requirements for housing need to be clearly identified, discussions around this have taken place in workstream 2 and have identified the requirement for property to be appropriately adapted, based in the community and centred around an individual. Further discussion will be required in relation to adaptations to identify any barriers and enablers in relation to this process, such as local capacity.

20. Alternatively, new models of care can be developed by Registered Social Landlords or Providers. The group have identified financial transactions as an area for further exploration to determine if this could be used to support development of new purpose-built models of care in the third sector. Financial transactions are funding in the form of loans from the Treasury. They can be used to provide loans to support capital expenditure and equity investments and have been utilised for housing related equity and loan finance schemes beyond the public sector. Interest rate and repayment terms are flexible (within the State Aid rules) and determined on a project by project basis depending on the business case.

21. Ensuring there is the appropriate available housing is key to ensuring a person can remain in the community. When a person is admitted to hospital in a crisis, they may be at risk of losing their tenancy and then become delayed if they have nowhere to return to. Work should be undertaken to further explore this area; this may involve recommendations on a change to housing benefit rules.

Commissioning and Procurement

22. There are a number of identified challenges with commissioning and procurement for complex care, given the relatively small number of individuals, it may not be something that is done regularly in a local area. There are specific things that need to be taken into account in a contract to ensure a placement is successful including clauses around hospital admission, treatment of voids, length of contracts and flexibility for service provision such as dual registration.

23. Scotland Excel have identified that this is a piece of work they would be able to work in partnership on and complete in the short-term, building on work by CCPS on Commissioning for Complexity.

24. There are alternative models of collaborative commissioning and procurement that can be used, the Adult Social Care Reform programme has a subgroup developing work on this. Whilst this work has been paused over the last few months there is an opportunity to ensure this work incorporates alternative approaches to commission for complex care.

## **Workstream 2 – Best Practice**

25. The best practice work stream has discussed presentations from the wide membership of the group, including Dr Anne MacDonald, author of the Coming Home report, Scottish Government on the current coding and data on this client group, clinical leads in NHS Greater Glasgow & Clyde, service providers (Quarriers, ENABLE and the Richmond Fellowship) on discharge pathway models, ALACHO on the housing contribution and from SCLD and a carer representative on family options.

26. Both workstreams have agreed the barriers to progress, many of which are not structural, legislative or financial but are caused by a lack *of visibility and understanding of this small but relatively complex population. Factors relating to this include:*
    - Lack of data which provides any level of useful quantitative data about needs for specific types of care and accommodation – making long term planning difficult.
    - Lack of data which tracks individuals in terms of their risk of admission or re-admission to hospital – and a range of other risk factors
    - Lack of data to manage where individuals with complex needs are placed out of area, or in temporary placements at a time of crisis – making it difficult to monitor the appropriateness of placements over time. Given that many of these individuals needs will change, when there are multiple changes of care manager, it has been stated that individuals can get lost in the system.
    - Voices of families, advocates, Welfare Guardians, speaking for individuals in this population may not be heard in relation to their human rights.

<u>Register</u>

27. The key emerging proposal from this group is the establishment of a 'register.' This has been considered by the Cabinet Secretary and Councillor Currie and further work will be completed to shape a recommendation. It has the potential to:
    - Provide greater visibility of the client group in terms of strategic planning;
    - Monitor performance to reduce both inappropriate admissions to hospital and to ensure people stay in hospital for as short a time as necessary to successfully rehabilitate them to appropriate person-centred community setting;
    - Monitor out of area placements;
    - Ensure greater anticipation of need for children transitioning into adult provision; and
    - Record occasions of restraint as a factor indicating risk of placement / evidence for monitoring.

28. There are several details about defining who (in terms of needs), what (in terms of data) and how the register is be maintained and by whom – but it is emerging as a strongly supported proposal. A sub-group being chaired by Anne MacDonald and including data experts at the Scottish Observatory for Learning Disabilities has been tasked with taking forward this proposal to answer some of the main questions of who what and how a register could be established.

29. Whilst the register will be useful it will not in itself lead to the change required. Local leadership in commissioning and planning needs to be put in place to drive the required change. However, it is clear from discussions to date, that it is difficult to

exercise that leadership when the client group concerned is not visible in routinely collected data and the voices of their families/advocates not heard.

30. In addition to highlighting the needs of this complex care group, the establishment of a register would facilitate performance measurement about admission and discharge which could be separate from the current Delayed Discharge reporting mechanism.

Proposed further work

31. One of the key concerns raised about the care and planning for this vulnerable group is that it is perceived individuals can be "lost in the system" due to lack of visibility leading to loss of accountability and care management. We recognise that due to pressures on social care, placements are sometimes made on the basis of available spaces, or under crisis circumstances and care placements are not revisited or reviewed regularly. This may be alleviated through improvements brought about by the introduction of a register, but there may be further governance required to ensure that people's human rights are fully respected. We are keen therefore to explore the role of enhanced external scrutiny, either through the existing human rights commissioner, Care Inspectorate, mental welfare commission, or some other form of enhanced promotion of the rights of choice and control.

32. There is evidence that admissions to hospital are often made due to a breakdown of care placement or inappropriate placement rather than clinical need. We would like to explore a more rigorous independent process with advocacy support prior to admission to hospital with the aim of ensuring there are no admissions to hospital-based care, unless hospital based clinical assessment and treatment is required. As part of this work we would also explore multi-agency contingency planning for crisis. Arrangements will be in place at a local level, but the group identified that clarity on roles & responsibilities if a placement begins to fail, including what additional support can be offered, governance issues, changes to working conditions etc may be helpful.

**Next Steps**

33. Following a period of wider engagement with professional advisors in Local Government and other stakeholders, the recommendations will be developed by the workstreams and reported politically. It had initially been proposed that the SLWG report at the end of August. However, it has been recognised that to do this wider engagement fully, the reporting date may need to be extended.

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