

To: SOCIAL WORK COMMITTEE	Subject: IMPLICATIONS OF NEW MENTAL HEALTH LEGISLATION FOR LOCAL AUTHORITIES	
From: DIRECTOR OF SOCIAL WORK		
Date: 28 FEBRUARY 2002	Ref: dm	

1. PURPOSE OF REPORT / INTRODUCTION

- 1.1. This report advises Committee of the implications for Local Authorities of new mental health legislation and seeks approval to use the monies allocated by the Scottish Executive to assist implementation.

2. BACKGROUND

- 2.1. Committee has previously been advised of 2 major new pieces of legislation in the field of mental health, namely:

- The Adults with Incapacity (Scotland) Act 2000
- A new Mental Health Act for Scotland.

- 2.2. In all there are 11 areas of work, which are new or significantly increased for Local Authorities contained within the Adults with Incapacity (Scotland) Act 2000 alone. The majority of these apply from April 2002.

- To investigate circumstances in which the personal welfare of an adult appears to be at risk.
- Investigation of complaints.
- To decide whether a formal medical assessment of an adult's capacity should be obtained.
- To provide information and advice to proxies with welfare power.
- To write reports in connection with applications for intervention orders and guardianship.
- To obtain intervention orders where necessary and no one else appears to be doing so.
- To apply for guardianship; to act as welfare guardian and to recall guardianship.
- To supervise guardians with welfare powers and attorneys where ordered to do so by the Court.
- To transfer guardianship to another local authority.
- To liaise with the Public Guardian and Mental Welfare Commission

- 2.3. A new Mental Health Act for Scotland is expected to be introduced as a bill in Autumn 2002. This extends the responsibilities of Mental Health Officers employed by Local Authorities in a number of ways, including;

- Giving consent for emergency and long term detentions (instead of relatives).
- Developing the plan of care for long term compulsion, often alongside a Social Circumstances Report.
- Co-ordinating the application for long-term compulsion.
- Preparing reports when long-term compulsions are being renewed and when mental health disposals are considered in criminal cases.
- Identifying the primary carer, if relevant for appointment as a named person.
- Being consulted by responsible medical officers prior to discharge from long-term compulsion or discharge on leave.
- Attending newly created Tribunals to consider appeals against detention.

3. PROPOSALS / CONSIDERATIONS

3.1. In terms of the Adults with Incapacity (Scotland) Act 2000, it is difficult to estimate the application of this legislation and therefore to quantify resource implications for Local Authorities. The Scottish Executive has allocated £60,000 to the Council to assist with implementation. There are major training, development and administrative functions to perform. It is proposed to use these resources to:

- Create a Resource Worker, Grade AP4/5/QSW, to support staff to carry out new responsibilities.
- Create posts of Senior Clerical Assistant (GS3) and Clerical Assistant Grade GS1/2 to record and process all the administrative demands arising from implementation of the Act, a task which requires significant inter-agency and departmental liaison. It is anticipated that the level of initial activity in this area of work will be significant and will require significant administrative support in the co-ordination of multi disciplinary training and service development. Workload is likely to increase further in the foreseeable future (see 3.3).

3.2. In terms of the proposed Mental Health Act the Mental Welfare Commission have undertaken a piece of work that estimates increased workloads for local authorities. For North Lanarkshire this represents 2,758 hours of costed additional work per year. The Commission has also identified areas of potential workload demands, not costed, that could be very significant.

3.3. The Social Work Department is in the process of reviewing its capacity to undertake new responsibilities against current available resources. The outcome of this exercise will be reported to a future Committee.

4. FINANCIAL / PERSONNEL / LEGAL / POLICY IMPLICATIONS

4.1. It is proposed to create new posts as set out at paragraph 3.1 using additional resources allocated by the Executive in the Council budget for 2002/03. The parliamentary timetable for the Mental Health Bill will further inform resource implications with respect to that piece of legislation.

5. RECOMMENDATIONS

5.1. Committee is asked to:

- (i) Approve the creation of the posts of Resource Worker, Grade AP4/5//QSW and administrative posts of Senior Clerical Assistant, Grade GS3, and Clerical Assistant, Grade GS1/2.
- (ii) Remit this report to Policy & Resources (Personnel) Sub Committee for their consideration; and
- (iii) Otherwise note the contents of this report.



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21 January 2002

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