

To: SOCIAL WORK COMMITTEE		Subject: COMMUNITY CARE AND HEALTH ACT 2002: MINISTERIAL POWERS OF INTERVENTION – CONSULTATION ON LADDER OF SUPPORT AND INTERVENTION
From: DIRECTOR OF SOCIAL WORK		
Date: 11 TH MARCH 2004	Ref: JD/SM	

1. PURPOSE OF REPORT / INTRODUCTION

- 1.1 This report advises Committee of the consultation paper that has been issued by the Scottish Executive in respect of the proposals they have developed in conjunction with COSLA for a ladder of support and intervention under Part 2 of the Community Care and Health (Scotland) Act 2002.
- 1.2 Committee is asked to approve that a response be prepared by officers from the Council in partnership with NHS Lanarkshire to the effect detailed in this report for submission to the Scottish Executive in April 2004.

2. BACKGROUND

- 2.1 Part 2 of the Community Care and Health (Scotland) Act 2002 (“the 2002 Act”) introduces new arrangements that remove legal barriers to joint working between Local Authorities and NHS bodies. These new arrangements build on the principles of the Joint Future agenda and enable the implementation of the full range of joint working arrangements as set out in the Scottish Executives Circular Number: CCD7/2001: “Joint Resourcing and Joint Management of Community Care Services”.
- 2.2 A consultation paper was issued to Local Authorities and Health bodies in August 2002 setting out proposals for regulations under Part 2 of the 2002 Act. A joint response was provided to the Scottish Executive, from North Lanarkshire and NHS Lanarkshire on 16th October 2002.
- 2.3 Subsequently, the Regulations 2002 were developed and issued with a guidance note in 2002. These were the subject of a report to Social Work Committee on 27th February 2003 and to the Housing and Technical Services Committee.
- 2.4 On 23rd January 2004, the Scottish Executive issued a consultation paper specifically in respect of section 17 of the 2002 Act. This section enables Ministers to intervene in local authorities or health boards, where it is viewed that performance of their health, social care or housing functions applicable to community care could be improved, by directing them to apply a range of joint working Arrangements (including delegation and pooling) set out in the Act and Regulations.
- 2.5 The Scottish Executive have requested that written responses to the consultation paper be submitted to them by 19th April 2004.

3. COMMUNITY CARE AND HEALTH ACT 2002: MINISTERIAL POWERS OF INTERVENTION – CONSULTATION ON LADDER OF SUPPORT AND INTERVENTION

- 3.1 The consultation paper proposes the Ladder of Support and Intervention that is to be implemented. This identifies the key bodies and processes for audit, inspection, assessment and monitoring that may identify difficulties in joint working as well as the support systems and triggers for intervention.
- 3.2 As stated in paragraph 2.4 above, section 17 of the 2002 Act provides a power for Scottish Ministers to direct local authorities and NHS bodies to participate in such joint working arrangements as are specified in the direction, where it is viewed that either body is failing to perform a particular function adequately or where joint working would be a solution to poor performance of that function.
- 3.3 Ministers made clear during the passage of the bill that these powers of intervention will only be used as a last resort. Consequently the focus of the framework is on support rather than intervention in order to provide local partners with the opportunity to improve results themselves, with or without external facilitation. However if these approaches fail or look likely to fail, Ministers will have the means of intervening.
- 3.4 It is proposed that a response be prepared by officers of North Lanarkshire Council in partnership with NHS Lanarkshire for approval by the North Lanarkshire Health and Care Partnership in April 2004. This response will include the following points:-
- ◆ Need for the Scottish Executive to streamline the number of bodies and reporting mechanisms (fourteen are identified in the consultation paper) to which Councils and NHS Boards are currently required to report;
 - ◆ Further clarification in respect of ‘by whose definition’ local authorities or NHS Boards will be seen to be ‘failing in joint working’ or where joint working would be a solution to poor performance of a function’ – such definition must take due cognisance of local factors such as demography, culture, resources etc;
 - ◆ Further clarification in respect of how Scottish Ministers would in practice seek to implement the ‘support’ stage of the Ladder, for example how they will meet development needs and support continuous improvement at the local level, as is their stated intent rather than to impose sanctions; and
 - ◆ Further clarification that any directions made as a result of intervention will take due cognisance of other duties and responsibilities of Councils and NHS Boards to ensure that these are not adversely affected.
- 3.5 In summary, the response will set out to acknowledge the emphasis that the consultation paper places on support to local partnerships but that, of most potential concern to the Council, are the powers of ministerial intervention and how these will be operated in practice. Joint planning partners in North Lanarkshire have responded to previous draft guidance by reinforcing that “local agencies/authorities are by far the most likely to know best with regard to the scale, scope and pace of implementing the Joint Future agenda in their areas” and that there has to be due cognisance taken of local circumstances.

4. RECOMMENDATIONS

4.1 Committee is asked to:

- (i) Remit the production of a response to Joint Planning Partners for approval by North Lanarkshire Health and Care Partnership; and
- (ii) Remit a copy of this report to the Housing and Technical Services Committee for information; and
- (iii) Otherwise note the contents of this report.



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16th February 2004

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