UK COVID-19 INQUIRY

PRELIMINARY HEARING IN MODULE 6
19 MARCH 2024

WRITTEN SUBMISSIONS FOR CORE PARTICIPANT
COSLA

1. The Convention of Scottish Local Authorities (COSLA) is grateful to the Inquiry for authorising its participation in Module 6 as a core participant. COSLA and its members are committed to assisting the Inquiry in any way they can and participating in the learning that can be gained from the Inquiry's work.

2. COSLA has considered the Note by Counsel to the Inquiry (CTI) and the following matters arise at this stage.

Expert evidence

3. Reference is made to paragraph 33 of the Note by CTI, which explains that expert evidence may be produced regarding the structure and capacity of the Adult Social Care Sector across the UK. A complex set of arrangements apply in Scotland, which it would be important for such an expert to explain.

4. Evidence ought to be before the Inquiry that, whilst the strategic planning necessary for the integrated delivery of certain health and social care services is typically delegated to health and social care partnerships, this is not the case for all decisions. Local authorities (and indeed health boards) each retain a significant and wide-ranging operational responsibility for decision making and delivery of those services within the scope of their respective statutory functions. By way of example:

    a. There are a significant number of local authority run care homes in Scotland. COSLA will be in a position to assist the expert and provide evidence to the Inquiry in relation to matters such as how the national care contract was intended to operate; and the challenges that local authority run care homes faced in the direct delivery of social care services during the pandemic.

b. Responsibility for the management of contracts with private care home providers lay with local authorities, with many care home residents having little, if any, interaction with health boards.

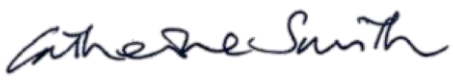
c. The constitution of the health and social care partnerships did not delegate all legal responsibilities to those partnerships. For example, their existence did not affect the employment status of those who worked for either the Scottish Health Boards or the local authorities, each of which retained contractual and statutory obligations in respect of its own members of staff. By way of further example, the arrangements for handling and determining service complaints within health and social care partnerships proceed under separate legislative provisions for health and social work respectively.

d. Decisions such as the discharge of patients from hospital; whether or not to test those patients; and matters relating to the DNACPR designations were decisions made and implemented by health boards, not local authorities;

5. COSLA is in a position to assist the expert in understanding how the Care Sector is structured across Scotland, as well as how it operates in practice across the various local authority areas. COSLA's ability to assist the expert in these matters will depend upon whether it is given the opportunity to make observations or provide evidence to assist the expert in good time before his or her report is finalised.

Survey of members

6. COSLA notes that in November 2023 the Inquiry asked the Local Government Association to conduct an online survey of its members in England and Wales. COSLA would be grateful to know if such an exercise was being contemplated for Scotland and, if so, would be willing to assist the Inquiry through facilitation of the conduct of a survey of its 32 member local authorities.



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