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Our ref: SF/EH/1204/02
Your ref:

Llywodraeth Cynulliad Cymru
Welsh Assembly Government

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Dear Gwenda

At the LGH Committee on 27 November I promised that I would write with more details of how we intend to approach the use of the new powers which the Community Care (Delayed Discharges) Bill would provide, having consulted Jane Hutt. I understand the position as follows:

The focus of the Bill is on tackling the delayed transfer of care between the NHS and community care settings. The Bill has two main planks.

The first is to create powers which could require local authorities to reimburse the NHS where patients are delayed in hospital for social services reasons. Part I of the Bill would enable the Secretary of State in England to introduce a system whereby a local authority makes a payment to the healthcare provider when an NHS patient's discharge from hospital is delayed because the local authority has not put in place the community care services which the patient needs from that authority in order to be safely discharged. The Bill will enable the Secretary of State to make regulations to define the patients whose care would be covered by this system; to set out the rules under which the NHS would notify social services when a patient requires community care following treatment; and to set out the circumstances under which a local authority would become liable to make a payment to the NHS. Local authorities would always have a minimum of three days to make an assessment of need and put the necessary services in place; regulations could extend this period. Local authorities would be liable to make a payment if they failed to make an assessment or if they alone failed to provide a service they said they would provide.

The Bill provides that the National Assembly for Wales should have the same powers in Wales as the Secretary of State does in England. The Assembly will have discretion over whether, not just when, to bring this part of the legislation into force in Wales. To do so would require Assembly legislation which would be subject to the standing orders governing such legislation.





The second part of the Bill would allow the Secretary of State (for Health) in England and the National Assembly in Wales to make regulations which will require that certain community care services are provided free by local authorities for a limited period to assist the process of safe timely discharge from hospital, where currently the local authority has power to charge for them. It would be up to the Assembly to decide when and how to use the regulation making powers conferred on it by the Act.

Policy in Wales

As regards reimbursement (Part I), the Welsh Assembly Government has no immediate intention of using the reimbursement provisions of the Bill. Delayed transfer of care is an important issue which requires sustained effort and attention everywhere where delays occur in the system, both within the NHS and between the NHS and other care settings. We must give the new partnership arrangements secured through our reforms which we have worked so carefully to bring into being over the last 12 months a chance to provide a renewed opportunity to deal with the problems of delayed transfer of care. We also already have in depth work being undertaken to understand and deal with the reasons for delayed transfer. The Health and Social Services Committee is monitoring the position on this closely, including the quality of joint working between health and the health related functions of local government, including but not restricted to, social services and the links with reducing waiting times and coping with winter pressures. Our decision to retain access to the powers in the Bill is based on our wish to ensure that Wales can benefit from experience elsewhere if that proves to be necessary without having to secure fresh primary legislation.

On the free provision of some local authority care services, you will be aware that there is already in place a voluntary 6 weeks free home care scheme. One possible use of the new regulation-making power would be to help to bring greater clarity and consistency in the way those arrangements operate. We would of course consult local government, users, carers and others on any proposals to bring forward regulations under these new powers. If regulations would have the effect of further extending free provision, we would need to consider the loss of charging income to local authorities under the "new burdens" procedure in the usual way.

The policy issues which this Bill is intended to address concern the interface between health and social care. While I will continue to maintain my interest in this area, Jane Hutt will keep a keen eye on progress and the solutions to these issues will be pursued vigorously within her portfolio. She and I will continue to liaise closely in this area and I will report back to you on any proposed developments which have significant implications for local government.



