

Health and Social Care Committee

Stage 1 Consideration of the Recovery of Medical Costs for Asbestos Diseases (Wales) Bill – Mick Antoniw AM – Members Bill

Written Evidence from the Minister for Health and Social Services

Consultation Questions

General

1. Is there a need for a Bill to allow recovery of costs of NHS treatment for asbestos-related diseases in Wales?

The Bill would allow the Welsh Ministers to recover costs incurred by Welsh NHS bodies in providing care and treatment to sufferers of asbestos-related diseases, and provide for funds recovered to be used for the care and treatment of victims. There is currently no other legislative basis on which these costs can be recovered by the Welsh Ministers. I believe it is appropriate for those responsible for the exposure to asbestos to be required to contribute to the care and treatment of victims, instead of the public purse having to bear all these costs, and consider the Bill achieves this in a way which is proportionate and justified

2. Do you think that the Bill, as drafted, delivers the stated objectives as set out in the Explanatory Memorandum?

I am content the Bill as drafted, achieves the main objectives the Member in Charge has set out for it. Of course, I will be interested to hear the views of the Committee and others as to how it might be improved.

3. Are the sections of the Bill appropriate in terms of introducing a regime to allow the recovery of costs of NHS treatment for asbestos-related diseases in Wales. If not, what changes need to be made to the Bill?

The Government is content the sections of the Bill and the powers therein for subordinate legislation, are appropriate to enable the proposed cost recovery scheme to operate. Subject to the Assembly passing the Bill, the Welsh Ministers intend to consult, in due course, on the subordinate legislation required to give effect to a scheme to recover the relevant costs. It will be important to ensure any prospective scheme operates effectively to recoup the costs with a minimum level of administrative outlay.

4. How will the Bill change what organisations do currently and what impact will such changes have, if any?

Broadly speaking, the Bill would extend, in respect of treatment provided by, or on behalf of, the NHS in Wales, provisions similar to those of the Health and Social Care (Community Health and Standards) Act 2003 which apply to personal injury cases, to sufferers from asbestos-related diseases. As such, organisations (in particular, Local Health Boards and NHS Trusts in Wales) have some experience of operating a very

similar scheme to that envisaged by the Bill. The Explanatory Memorandum sets out an assessment of the impact on the various sectors involved.

It is not envisaged significantly new arrangements will be required to be developed and implemented by Local Health Boards and NHS Trusts in order for them to provide information to support the cost recovery scheme. However, there will need to be some transitional development work. This is covered in the Explanatory Memorandum.

5. What are the potential barriers to implementing the provisions of the Bill (if any) and does the Bill take account of them?

Although the Government considers the administrative costs outlined in the Explanatory Memorandum to be an accurate estimate, further work will be required to establish with a degree of certainty the costs associated with administering the scheme. In particular, the Welsh Government will need to enter into detailed discussions with the Compensation Recovery Unit (in the Department for Work and Pensions). Our intention, subject to the will of the Assembly, is a scheme could be implemented from the beginning of the 2014-2015 financial year. This is an ambitious target given the need to consult on, produce and progress through the Assembly, a number of items of subordinate legislation that will support the operation of the cost recovery scheme.

6. Do you have any views on the way in which the Bill falls within the legislative competence of the National Assembly for Wales?

The Government concurs with the view put forward in the Member in Charge's Explanatory Memorandum that the provisions of the Bill fall within subject heading 9 (Health and health services) of Part 1 of Schedule 7 to the Government of Wales Act 2006, which in particular includes "organisation and funding of national health service". I was also very pleased to see the Presiding Officer has confirmed her view that the Bill is within the legislative competence of the Assembly.

Powers to make subordinate legislation

7. What are your views on powers in the Bill for Welsh Ministers to make subordinate legislation (i.e. statutory instruments, including regulations, orders and directions)?

We are content the Bill, as drafted, provides powers for the Welsh Ministers to make subordinate legislation only where it is appropriate to do so. This is principally to allow for detailed provision to be made in relation to the operation of the cost recovery scheme. Further, we are content with the proposed Assembly procedure attached to the powers, as these broadly align to the guidelines that the Government follows when drafting provisions.

Financial Implications

8. What are your views on the financial implications of the Bill?

As stated above, further work will be required to establish more detailed costings for the scheme which the Bill envisages. The Bill proposes a tariff-based approach which will enable the Welsh Ministers to implement the scheme in such a way as to keep administrative costs to a minimum, and we will seek to implement the legislation in such a

way as to minimise the costs relative to the costs which we are able to recover. Overall I consider the Bill presents an opportunity to release significant resources which it is intended will be utilised to provide additional services for the benefit of victims of asbestos-related diseases and their families.