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**Scottish Public Health Network (ScotPHN)**

**Palliative and end of life care in Scotland:  
The rationale for a public health approach**

**Briefing Paper 2: Political Landscape**

**Michelle Gillies – February 2016**

## **Briefing Paper 2: Legislative Framework**

This briefing paper, accompanying the report 'Palliative and end of life care in Scotland: the rationale for a public health approach,' outlines the current political landscape in Scotland.

Legislative powers relating to health and social care were devolved to the Scottish Parliament in the Scotland Act 1998<sup>1</sup>. Governance and policy relating to health and social care in the devolved nations has diverged since<sup>2</sup>, albeit with little difference in health equity outcomes<sup>3</sup>. Early abolition of the purchaser/provider split in Scotland facilitated the advancement of the integration agenda culminating in the major public sector reforms underway today<sup>2,4</sup>. These reforms have been driven by concerns over the sustainability of public services at a time of increasing demand as a result of increasing public expectations, increasingly expensive technology and treatments, changing population demographics and the sequelae of deep-rooted social inequalities, that have persisted, and in some cases worsened, despite public policy and growth in public sector spending in the decade that followed devolution<sup>4</sup>. It has been estimated that over 40% of local public spending is reactive, meeting 'failure demand' addressing the consequences rather than causes of inequalities<sup>4</sup>. A tension exists between investing to meet current demand and investing in preventative strategies to mitigate future demand.

Funding for health and social care in Scotland is provided through the UK Treasury as a block grant via the Barnett Formula. Overall funding is therefore determined by UK Government policy and public sector spending in England. The Scottish Government, subject to approval by the Scottish Parliament, has discretion over distribution of the block funds to devolved public sector services. The Scotland Act 2012 increased the Scottish Government's income generating powers through taxation (over land and buildings and landfill) and borrowing<sup>5</sup>. In the late stages of the 2014 Independence Referendum, which generated an unprecedented level of public debate and political engagement, a cross-party commitment was made to substantial devolution of powers to the Scottish Parliament in the event of a 'No' vote. Subsequently, The Smith Commission, charged with translating this commitment into a devolution settlement, made a number of recommendations including devolution of powers over income tax generation and welfare and an ongoing commitment to a block grant via an amended Barnett formula<sup>6</sup>. The Scotland Bill 2015 announced by the UK Government falls short of the level of fiscal responsibility and autonomy over social security recommended by The Smith Commission<sup>7</sup>. It remains to be seen whether the measures agreed by The Smith Commission will be implemented; there is considerable uncertainty as to the wider constitutional implications and financial risks of doing so.

The dominant fiscal policy of the UK Government in response to the global economic crisis that began in 2007 has been a programme of austerity aimed at achieving economic growth by reducing the deficit to give confidence to the markets. Deep public sector spending cuts have been accompanied by reform of the UK taxation and welfare systems (The Welfare Reform Act 2012)<sup>8</sup>. As a direct result Scotland's

fiscal DEL budget was cut by 10% between 2010/11 and 2015/16, with further reductions forecast<sup>9</sup>. Analyses suggest that welfare reform will widen health inequalities and have a profound negative impact on the health and wellbeing of the most vulnerable groups in society including those with disability and long-term conditions<sup>10-12</sup>.

The Scottish Government has been a vocal opponent of the UK Governments programme of austerity<sup>13</sup>. The Welfare Funds (Scotland) Act 2015 was introduced by the Scottish Parliament to “*mitigate the most harmful impacts of the UK Governments welfare reforms*” (2015/16 budget)<sup>14</sup>.

In summary, the political landscape in Scotland is currently characterized by major public sector reform, driven by high demand, taking place at time of financial and resource constraint, with the UK and Scottish Governments articulating increasingly divergent visions for health and social care and economic policy. The extent to which additional powers over the economy and welfare recommended by The Smith Commission will be devolved to the Scottish Parliament is unknown.

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**For further information contact:**

**ScotPHN  
c/o NHS Health Scotland  
Meridian Court  
5 Cadogan Street  
Glasgow  
G2 6QE**

**Email: [nhs.healthscotland-scotphn@nhs.net](mailto:nhs.healthscotland-scotphn@nhs.net)**

**Web: [www.scotphn.net](http://www.scotphn.net)**

**Twitter: [@NHS\\_ScotPHN](https://twitter.com/NHS_ScotPHN)**