



The Scottish Parliament
Pàrlamaid na h-Alba

Social Justice and Social Security Committee

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08 December 2022

Dear Gillian,

National Care Service (Scotland) Bill Stage 1 Scrutiny

At its meeting on 30 June 2022, the Social Justice and Social Security Committee agreed to scrutinise the National Care Service (Scotland) Bill.

Evidence gathering

We held two evidence sessions focusing on aspects of the Bill falling within the remit of the Committee – social justice, the third sector and homelessness.

These meetings took place on [10 November](#) and [17 November](#) and covered issues related to unpaid carers and care users, social care workers, the gendered nature of social care, and the third sector's role in supporting care users and delivering care services.

Across these sessions, members heard from the following stakeholders:

- Age Scotland
- Inclusion Scotland

- Minority Ethnic Carers of People Project (MECOPP)
- Carers Trust Scotland (CTS)
- GMB Scotland
- Volunteer Scotland
- Scottish Women’s Budget Group (SWBG)
- Social Work Scotland (SWS)
- ENABLE
- Coalition of Care and Support Providers in Scotland (CCPS)
- Crisis
- Glasgow Council for the Voluntary Sector (GCVS)
- L’Arche Highland
- Leonard Cheshire

On 17 November, we also heard from Kevin Stewart, Minister for Mental Wellbeing and Social Care (the Minister).

We would like to thank our witnesses for sharing their time and views with us as we know organisations are under sustained pressure to support individuals and communities, while also being asked to contribute to the Scottish Parliament’s scrutiny of the National Care Service (Scotland) Bill (the Bill).

This letter covers:

- General principles
- Framework nature of the Bill and co-design
- Transition to the National Care Service and timing
- Accountability (including human rights)
- Procurement
- Workforce
- Third sector and volunteers
- Right to breaks from caring
- Visits to/by care home residents “Anne’s law”
- Homelessness

General principles

Witnesses broadly accepted the intent behind the Bill and the need for reform. For example, Carers Trust Scotland (CTS) said, “there is much to be welcomed in the Bill” as did Age Scotland who considered the broad principles “fit quite well with the aspirations and direction of the Feeley review”. Inclusion Scotland were also “quite supportive of the principles of the Bill” and recognised “it takes a human rights approach”.

The Minister advised the Scottish Government “have committed to increasing spend on social care by 25 per cent by the end of the parliamentary session. That helps lay the groundwork for the national care service.” He also emphasised that the National Care Service (NCS) is an “all-Scotland programme” and that it must be “right for everyone”, whatever region they live in.

Organisations did however have some concerns and raised specific issues with us which are outlined below.

Framework nature of Bill and co-design

Secondary legislation

Several witnesses were concerned about whether the Bill struck the right balance between providing a framework for a NCS and the level of detail which would be delivered through secondary legislation to meet the intentions of the Bill. For instance, CTS are concerned that the “policy intent gets diluted” due to the lack of detail in the Bill and that it is difficult for stakeholders to see “what the proposals will look like” as the Bill passes through Parliament.

Age Scotland stated:

“I think the bill is unique in that, for such a big proposal, we are not seeing much of the detail early enough on.”

Inclusion Scotland set out their view on the principles of the Bill:

“We are quite supportive of the principles of the bill and we recognise that it takes a human rights approach, which is great. We think that there needs to be more detail about the human rights approach and which human rights will be included. There is concern that the right to independent living will not necessarily be reflected in the bill and there is a right to choice of control and dignity and respect. There are concerns that supported people will not necessarily be included in decision making going forward. There are some top-line principles that could have been included in the bill that go to co-design, such as co-production. I can go into more detail, but we support the principles, although there could have been a bit more detail in the bill.”

Social Work Scotland (SWS) said they had been seeking a pause so that the co-design process could be done in detail ahead of the Bill:

“We have to think about the current context that we are in. We have just come out of the pandemic and we have staff who are exceptionally tired at this point. We have the cost of living crisis and we have the challenges that we are seeing in the NHS, such as the delays. We are seeing pressures in our workforce with gaps in social work and social care. At times it feels as if we are running to stand still on this. When we look at the consultation process that is planned in the co-design and the 70 separate workstreams, it will be challenging for the workforce to be confident that we can engage in that in a positive and meaningful way.”

GMB Scotland said that, while the workforce had been involved in the process, it had been through trade unions pressing for meetings as well as representation at working groups, and that they “would not say that it was an open invitation”.

GMB Scotland further pointed out that it is hard “to get people involved in and to support something that is non-prescriptive and all subject to co-design and to ask the

workforce to take a leap of faith.” They said they want more information, as well as “consistency and promises on paper”.

L’Arche Highland worried about the loss of local knowledge and stated if secondary legislation is not correct it risks social care becoming a “top-down bureaucratic entity”. The Minister stated that the approach would be to establish what is required through gradual consultation in order to get the secondary legislation right and make sure it is “adaptable and flexible” and has “people at the very heart of the co-design and building of the service.”

Inclusion and co-design gradually

Witnesses underlined that co-design must be inclusive and referred to the PANEL principles¹ stressing these should be at the core of the process. Age Scotland said that a key part of co-design is that Ministers are responsible for making sure the care service is working and that enough resources are available to ensure the right voices are heard and participation is enabled. MECOPP underlined efforts must be made to reach communities that are “distant” from the process and called for active consideration as to how these communities can be involved.

CTS stated that overall the aims of the co-design are “correct and well-intended”, and when they spoke with unpaid carers they found “general support for the NCS and the Bill”. However, CTS stated it is essential that “children and young people who care for adults are involved in the co-design process”.

With regards to including older people, Age Scotland said digital exclusion is a concern. They outlined that “half a million older people in Scotland do not use the internet and 600,000 do not have smartphones”. In terms of intersectionality, Age Scotland further explained that older people from an ethnic minority background face additional challenges in terms of language barriers and that those who are disabled also need to be supported to access the process. Inclusion Scotland also advised while 94 per cent of non-disabled adults use the internet, only 71 per cent of those with enduring physical and mental health conditions are able to do the same.

Co-design and local planning on care boards

Inclusion Scotland commented that “co-production and co-design of services is... embedded in human rights and also in law” and this needs to be applied consistently “at every stage and at every level of the whole system”. In particular, Inclusion Scotland called for additional detail in the Bill to show “that there will be a commitment to co-producing local planning on care boards”. Volunteer Scotland were also interested in which groups will comprise the care boards and how the voluntary sector will be engaged.

¹ The Scottish Human Rights Commission describes how: “Taking a human rights-based approach is about making sure that people’s rights are put at the very centre of policies and practices. The PANEL principles are one way of breaking down what this means in practice. These are: Participation, Accountability, Non-Discrimination, Empowerment and Legality.”

L'Arche Highland commented on the approach of the co-design process:

“I would feel more reassured if the co-design process were to happen at the local, grass-roots level, as it should; if there were funding for service user representatives; if, simply, travel expenses were paid; if resources were made available to enable everybody to have equal access to the co-design process; and if that process were to happen not only in urban centres. After all, Inverness might seem far enough north to you, but what about the people of Wick, Thurso, the islands and all the rest of it?”

Measuring the effectiveness of co-design

Witnesses discussed how the co-design process could be measured effectively. One measure presented by CTS is that co-design will have been successful if those with lived experience think that the NCS represents them and reflects the intentions of the Feeley review. MECOPP considered equalities monitoring should be strengthened, so the data gathered will provide an indication of what is working and not working across the demographics.

In response to these concerns, the Minister explained that the Bill's framework is designed to create flexibility to enable the NCS to “develop, adapt and respond to specific circumstances over time.” He added, with roughly one in 25 people receiving some form of care related support in Scotland, and demand expected to increase, the NCS should be developed to address challenges that exist not only now but in the future.

On the approach the Scottish Government has taken to the Bill and secondary legislation, the Minister said that he does not believe that putting the co-design before the framework would have worked because those with lived experience may not have had the confidence to contribute to the extent the Scottish Government believes is necessary. He further advised there has been 400 sign-ups for the lived experience expert panel, but indicated he wanted that number to increase and said the Government will do all it can to boost this.

We asked the Minister to keep us updated on the work of the lived experience expert panels as it develops.

In terms of care boards, the Minister said that decisions on who should sit on these is a matter to be addressed through co-design. However, he added those with lived experience should be on these boards and “should have voting rights”.

The Minister said that:

“The Government has been clear that we will ensure that those who currently require care and support, their carers and the workforce are at the heart of shaping the new service.”

The Committee asks the Health, Social Care and Sport Committee to explore further with the Minister the Scottish Government's timescales for its co-design programme.

Transition to a National Care Service and timing

Current issues affecting social care

Sectoral organisations drew attention to their concerns about introducing a new system at the same time as trying to meet current needs.

GMB Scotland said social care is in crisis and advised there is nothing to stop changes taking place now to address urgent issues, especially in respect of recruitment and retention of staff. L'Arche Highland was also of the view that the Bill does not need to be a prerequisite for implementing some of its aims, such as Anne's Law, fair work, and the complaints service. The Coalition of Care and Support Providers in Scotland (CCSPS) also highlighted their concerns around current levels of unmet need, as well as a lack of fair work and properly implemented self-directed support. ENABLE, as well as pointing to the recruitment and retention crisis, commented on the impact this is having on people's ability to "exercise their right to high-quality social care and support". They drew on an example of care for people with learning disabilities:

"In 2000, the Scottish Government announced the policy intention of ending institutional care for people with learning disabilities, and Lennox Castle hospital was shut in 2002. In 2018, however, the "Coming Home" report that was produced for the Scottish Government found that more than 700 people with learning disabilities and autism from Scotland were still in some form of institutional care, and 79 of them were not even in Scotland but had been moved out of the country. Those are the sorts of issues that have emerged. Earlier this year, Enable's my own front door campaign identified that there could be more than 1,000 people with learning disabilities in hospital or institutional settings who should be in their own community. We should never forget the impact of that."

Minimising disruption

Witnesses discussed how the Scottish Government could ensure the transition to the NCS would not cause disruption for care users, carers, and the wider workforce. On this, SWS said there are steps that can be taken outwith the Bill that would improve ways of working and collaboration, allowing for some of the concerns that exist within the sector to be addressed.

SWS outlined that without a coordinated approach there is a risk of destabilisation for young disabled people transitioning to adulthood. They pointed out that transitions go beyond the remit of social work – issues related to education and housing are also vital to address. We note that the Education, Children and Young People Committee are taking evidence on the Bill in relation to children's services.

CCPS argued a "twin-track" approach is needed to ensure stability both now and in the future. They highlighted work undertaken with their members – '*Urgent Action for Urgent Times*'².

² [Urgent Action for Urgent Times: A winter manifesto](#)

Leonard Cheshire set out the role funding of the sector has in providing quality of care:

“Funding is, of course, critical to workforce planning. If front-line workers are to build a strong rapport with the people whom they are supporting, we need to understand that such relationships really matter and affect the quality of care—indeed, they are integral to it—so all of the issues about long-term funding are important.”

GMB Scotland suggested in addition to paying social carers a minimum rate of £15 per hour, they want Scottish Social Services Council professional fees paid for all care workers, and training costs met by employers with sessions taking place on staff’s paid time. They also asked for trade unions to be recognised in all social care settings.

ENABLE explained with the current approach people often find that, in order to have personal assistants, those receiving care feel they have to “start running what amounts to a small business”. They highlighted their model for the provision of personal assistants whereby ENABLE “takes on the functions of the employer”, supporting the individual to choose their support, while taking care of the background work.

SWS were looking for more information in the Bill on the national social work agency, as well as on the role of the chief social work officer.

Waiting for Care

Age Scotland pointed to “extraordinarily long waiting times to have an assessment in the first place and then to receive social care packages”. They also highlighted the organisation’s “Waiting for Care”³ report released in 2019 which showed that “40 per cent of older adults receiving social care were waiting longer than the national guidelines to get it.”

Age Scotland also cited recent data on waiting times for social care, from journalist Helen Puttick at the Times, which shows that, in some areas, people are waiting years for social care. They commented on what this means in terms of an individuals’ rights:

“At what point does the local authority say, “We had better fix this, because we are not meeting this person’s right”? It might be difficult if a charter or something else says, “This must be done,” but such waiting times are wholly unfair and absolutely scandalous. Things might be hard in the delivery of social care, but, if someone is waiting 800 days to receive a social care package or for the first part of one to start, their life is ruined.”

The Minister said that he agreed with those who say it is not necessary to wait until the NCS is established to make improvements to social care and highlighted several

³ [Waiting for Care: Is Scotland meeting its commitment to older people?](#)

examples of work the Scottish Government is undertaking, including fair work in the sector alongside COSLA and working with partners on recruitment and retention.

The Minister added that the government has also already transferred £200 million to local government to invest in social care, which he stated includes resource to fund the £10.50 per hour minimum hourly rate.

The Minister acknowledged the current postcode lottery of self-directed support. He said the Scottish Government has been working to change the guidance on this which would be published in the next couple of weeks. The Minister added this is one of the reasons secondary legislation is so important, as it means things remain “flexible and adaptable” even if the legislation is not initially correct, whereas changing primary legislation can take a long time.

Accountability (including human rights)

Social Justice is strongly linked to human rights. In a [speech](#) to the inaugural meeting of National Care Service Forum on 3 October, the Minister said: “The NCS will be delivered in a way that respects, protects and fulfils the human rights of people accessing care support and also their carers.”

The Policy Memorandum for the Bill states:

“it is intended that the NCS will support a more rights based and person centred approach to social care, which is embedded in the NCS Charter and principles.” (Para 260)

Inclusion Scotland cited a lack of trust from their stakeholders, especially following the pandemic when a lot of people’s social care support was removed, impacting their human rights:

“Some people were left unable to get out of bed. One person said that they had to sleep in a wheelchair.”

The National Care Service Charter and complaints

Witnesses were in favour of having the National Care Service Charter (the Charter) set out within the Bill, however for many the success of the Charter is reliant on how accessible it will be to users, its implementation and whether it will be adhered to.

CTS considered the Charter’s “longer-term vision and implementation” to be important to ensure people can “understand what the national care service is and what their rights are within it.” Age Scotland also reflected the Charter should set out what people can expect, who will provide the service and who will be accountable, and that the language used should be accessible with no ambiguity. MECOPP emphasised “rights are only meaningful if you are able to realise those rights”, underlining if individuals have a right to a service but that service is not available, they are not able to access their right.

Inclusion Scotland considered if the Charter “is not legally binding, or if it has loopholes”, then it will be “toothless”. They observed a current lack of a complaints

system and that people are left to complain to their service provider, resulting in complainants feeling they may risk losing their care if they pursue issues. They added that a complaints system needs to be independent, and people need to be able to know they are understood and that action will be taken. They highlighted an example of poor practice:

“...a people-led policy panel member...said that, when she phoned to complain to the NHS about access to a service, she was told that she was being far too negative. She phoned to make a complaint; she did not phone to give them general feedback. If people want to offer feedback, there is another way to do that, but complaints are complaints. They should be handled as complaints, there should be some redress and people should feel that their complaints are being taken seriously.”

Age Scotland contributed to the evidence on accountability:

“In IJBs, if people out in the real world are having problems with care, who is responsible? What happens? What is the accountability measure? An important part of the co-design and co-production element is that ministers are ultimately responsible for making sure it is working and making sure that enough resources are going in to ensure that they are getting the right voices and the right participation. In all the debate about the national care service, we sometimes miss the element of who is responsible and who has the urgency, almost, to fix it for a change.”

On complaints, they said:

“I think that there needs to be a mechanism with teeth so that people can make complaints that are anonymous and can have their voice heard. One of the things that we hear a lot through our helpline when people have complaints with, say, care homes or their social care packages, is that they are worried about speaking up publicly or even making a proper complaint through the current routes for fear of recrimination. We have heard—this is slightly anecdotal—of people who have made complaints about their care home finding themselves a few weeks later essentially being handed a notice of eviction and being asked to leave because the place can no longer meet their care needs. Where does someone in that situation go?”

Age Scotland went on to say that “having a strong independent body that can properly scrutinise complaints and take action is important.” They added that the number and nature of complaints, as well as where they are taking place should also be recorded.

MECOPP added:

“The issue of how the charter is viewed is important. Complaints are not necessarily a bad thing, because they drive improvement, and other providers and local authorities can also learn from them. It is important to capture that when we are talking about the rights of the charter being enshrined in law.”

Witnesses across both evidence sessions were asked whether the new Charter should have a legal status to allow people to seek recourse through judicial review. Of those who commented, all agreed that it should.

Training on the Charter

In addition, Age Scotland said the Charter must be a training priority for those delivering care within the service and be something they actively refer to, in order to embed it within the system.

Other rights to be included in the Bill

As well as the Charter, a few witnesses wanted rights explicitly set out in the Bill. Both Inclusion Scotland and the Scottish Women's Budget Group (SWBG) would like the linkage between the human rights based approach and the outcomes sought through the Bill expressed more clearly in the Bill.

Additionally, Inclusion Scotland argued the right to independent living should be legislated for in the Bill so people could claim their civic right to participation, "to live within their communities and have things like the right to family life and friendship and the right to go to work". They say "it is a universal right in the United Nations Convention on the Rights of Persons with Disabilities", however, they add "there has been a little bit of backing off from it by the Scottish Government" and "that people feel that not everybody can have independent living". They also highlighted the need for "accurate and intersectional, aggregated data and co-designed qualitative responses monitoring the experience of accessing and receiving support" to achieve this objective.

ENABLE said "to have a truly human rights-driven and self-directed social care and support system in Scotland, self-directedness has to be at the heart of it". They noted, however, the Bill does not specifically reference self-directedness and thought this might be an oversight. They note that, although the Social Care (Self-directed Support) (Scotland) Act 2013 is almost ten years old, its practice it is not prevalent enough.

National accountability

Some stakeholders had specific asks to increase accountability at national level.

Inclusion Scotland wanted a "record of unmet need" that feeds into planning so everyone's human rights are met. MECOPP added that, because practice differs across Scotland, this can exacerbate problems for people from an ethnic minority background and that there should be "much more national direction on how to eliminate discrimination and promote equality of opportunity". CCPS stressed that provisions relating to governmental accountability within the Bill are broad and do not offer adequate clarity in terms of Ministers' accountability:

"the bill sets out such accountability in specific ways. The core accountability of ministers is dealt with in two provisions at the start of the bill, once the principles have been set out. Those provisions are quite broad and do not necessarily give us a sufficiently clear and transparent sense of ministers'

accountability. Under section 2, their duty is “to promote” a national care service that will improve people’s wellbeing.”

Given the potential impact on peoples’ lives, they state the accountability of Ministers should be set out far more clearly within the Bill:

“I would suggest that, if ministers are to hold accountability for something with the risks that social care has and with such profound consequences for people’s ability to be full participants in their communities, that accountability should be much clearer than it is. According to the bill, ministers would basically be choosing for themselves whether they had applied the principles appropriately.”

They added:

“Where such accountability sits is a political decision; it is not one for providers. However, if it is to be held centrally, we need to be clear about how it is being held; what that accountability is for; how it will be reported on; and how, in and of itself, it will solve the problems that we have been discussing here. How will that solve the implementation gap for self-directed support? One provider said to me, “If self-directed support had done everything we’d hoped for, would we be here?” That is a reasonable question. If the issue is about changing accountability, how will the bill make that better?”

CCPS also discussed a national care board:

“For us, one of the greatest disappointments is that Derek Feeley’s approach to national governance has been lost, in the bill. We wanted a national care board. Good decisions are made by having diverse voices. In a previous job that involved considering failures in the health service I worked with a very prominent lawyer. One of their conclusions was that when a board is diverse it makes good decisions; if it is not, you get groupthink. The point of having a national care board was that it would be a really important place for co-design because that is where we would model what we want to see throughout the system. The fact that that has been lost in the bill is huge, and we certainly want to see it put back in.”

The Minister set out the aim of the Charter:

“The purpose of the charter is to ensure that everyone knows and understands their rights and responsibilities and what to expect from the future national care service. In addition, the charter will provide information on the process for upholding those rights.”

Further to this, the Minister noted that the co-design work currently taking place will reflect the upcoming Scottish human rights Bill. Moreover, he confirmed the intention to include information on the NCS complaints and redress system stating this will provide recourse if rights within the Charter are contravened.

With regard to accountability, the Minister said that, while the Scottish Government direct policy, it is not responsible for service delivery. However, he recognised

Ministerial accountability is something people would like to see, and that is one of the reasons for the Bill, to ensure this is in place.

Procurement

Section 10 of the Bill provides that strategic plans must include an 'ethical commissioning strategy', which is a strategy for "ensuring that the arrangements for providing the service best reflect the National Care Service principles".

CCPS noted that the Bill has insufficient detail on ethical commissioning and that this should be strengthened so that it is "at the heart of a radically reformed service". GMB Scotland added that if employers sign up to ethical commissioning and fair work accreditation, there needs to be regulation in place to ensure this is adhered to.

Following on from this, SWS stated that the budgetary constraints affecting commissioning bodies is also a challenge. SWBG drew attention to Scottish Trades Union Congress research, which shows that "the largest private firms have lower wages, more complaints about care quality and higher levels of rent extraction".

On support for those working in the sector, the Minister told the Committee that the NCS will improve pay and conditions and "act as an exemplar in its approach to fair work".

Workforce

Valuing social care sector

GMB Scotland stated one of the barriers to equality for the sector is the public's perception of what social care is. They stated the ongoing feeling that women are more caring than men is being taken advantage of. SWBG asserted without efforts to keep equality at the forefront, women's equality would be pushed back.

SWBG emphasised it is vital social care is valued as important societal infrastructure and that money spent on it is viewed as an investment. Currently, SWBG said a little under 2 per cent of GDP is invested in social care, but that this figure needs to be more like to 3.5 per cent, which would transform the service as well as tackling inequalities.

Terms, conditions, and pensions

SWS outlined concerns facing the workforce:

"The anxiety about whether people's employer will change when they cannot see what the wider benefits might be for them is fairly significant. That level of uncertainty for staff makes it difficult for them to think about engaging in the wider conversations that are so important about how the national care service will improve outcomes in the way we work, because for some of those front-line staff now it is about, "My terms and conditions, where I am going to be working and what will it mean for my pension.""

CCPS also commented on arrangements for employment and pensions:

“If staff are not transferred but contracts go from local authority provision to the third sector, what will be the cost implications for our members and how will they deal with things like pensions?”

The Committee asks the Health, Social Care and Sport Committee to seek clarity from the Minister regarding pension arrangements.

SWBG commented on the inequality within the sector stating at present 83 per cent of the social care workforce are women. They noted the long-term undervaluing of care work, with 20 per cent of the workforce without permanent contracts and 11 per cent on zero hours contracts. L’Arche Highland pointed to data from the SDS survey carried out this year which shows 12 per cent of personal assistants had no contract at all and that 45 per cent had to pay for their own training, with just 25 per cent of new personal assistants saying they received any training within the last year.

Pay, recruitment and retention

GMB Scotland set out their perspective on the issues facing the sector:

“Right now, social care workers are living on poverty pay for doing a lot more work to cover the gaps in recruitment. We are driving the social care workforce into a state of panic and anxiety because workers do not know what they will face the next day.”

CCPS also outlined challenges:

“Providers have their backs against the wall financially, and there is a recruitment and retention crisis in the sector: we cannot get enough staff. That puts us all in a very difficult position while we are also trying to deal with a vision for big structural reform.”

SWBG emphasised the Fair Work Convention has previously highlighted that fair work is not being delivered in social care, and CCPS said “we have been talking about fair work in social care for some years now. This year, instead of moving towards it, we are moving ever further away”. They advised last year a commitment was made to pay £10.50 an hour, however the real living wage of £10.90 has now exceeded that. CCPS made the point that this 40 pence difference means a shortfall of about £800 per year. They said that there used to be a differential between the starting salary in social care and the real living wage. If that differential had been maintained the rate would now be £11.55.

SWBG agreed with GMB Scotland that £15 per hour would constitute a “fair wage for social care workers”. They said that this would be approximately 75 per cent of nurses’ wages, whereas currently it is more like 50 per cent. Given the cuts to the health and social care budget, ENABLE commented it is difficult to see where resource would come from to allow social care workers a pay rise.

CCPS advised salary “differentials of £4,000 in the starting salaries of public sector and third sector providers are not uncommon”. CCPS also pointed out that social care staff have not received the pay awards that some of those working in the public

sector have been given. They added there is also an issue in the way some uplifts have been awarded:

“It is not always known that the uplift has been applied only to adult social care, not across the entire sector. Because the uplifts have been applied only to a percentage of the workforce, it is really hard, within providers, to keep the differential that one of my colleagues mentioned. As a consequence, it is difficult to keep people in some of the more senior posts. If there is only a minor differential in pay, why would you want to take on all that additional responsibility and not be rewarded appropriately for it?”

L’Arche Highland explained they have not received the uplifts that would allow for the maintenance of pay differentials, “particularly for front-line managers”.

GCVS noted in addition to issues related to pay, wellbeing within the workforce is also a concern with the sector facing higher absence rates.

The Minister set out what action the Scottish Government had taken on pay:

“In April, as you know, we set the minimum hourly rate for providing direct adult social care at £10.50 an hour, which was the second pay rise in a year. The Government has also transferred £200 million to local government to support investment in social care, which includes delivery of that uplift.”

He added the Scottish Government is working with COSLA to “progress fair work in the sector” and the “Fair Work in Social Care Group has developed a set of recommendations for minimum standards for terms and conditions, which reflect those fair work principles.” He said the Group will also look at “improving the rates of maternity, paternity and sick pay.”

On recruitment and retention, the Minister stated that career pathways must be improved and that NCS offers the opportunity to end postcode lotteries when it comes to service provision. He added that the NCS service also provides an opportunity for sectoral bargaining at the national level.

The Committee asks the Health, Social Care and Sport Committee to seek further clarity from the Minister about the financial figures he has quoted in evidence. Specifically, we consider more information is needed on the £200 million referred to for local government, as well as the Scottish Government’s commitment to increase spend on social care by 25 per cent.

Third sector and volunteers

Delivering care services

ENABLE said it would be good for the Bill to recognise the voluntary sector has a “strong record” when it comes to “delivering care to people in their own homes and communities”:

“Around 46 per cent of the social care workforce for care at home services is in the voluntary sector, with about 27 per cent in each of the private and public sectors.”

GCVS said:

“We have organisations wondering whether they can meet their services and pay the core costs to keep going while trying not to destabilise the confidence and wellbeing of the people whom they support. As has been said, organisations are using their reserves to try to keep their service going in the face of uncertainty about funding decisions that might come in a month’s time.”

Inclusion Scotland raised concerns that the effect of the cost of living crisis could impact on delivery of the service. The organisation added that “disabled people—not everybody—often act as a collective, and they do that via disabled people’s organisations and centres for inclusive living”, and that they need funding to do that.

L’Arche Highland also raised concerns about the funding requirements for services in rural areas, especially in relation to fragile communities.

The role of volunteers

Volunteer Scotland commented “it is fairly evident that the bill is quite light on detail” and added they were unsure to what extent volunteers had been involved in the development of it. They confirmed the organisation “have not been asked to contribute so far” and advised the complexity of, and contributions made by, the voluntary sector are currently not “reflected adequately”. Volunteers Scotland stated volunteers are an important part of the workforce and estimate that roughly 200,000 volunteers support the sector, though they stressed volunteers are not there to plug staff shortages.

When asked about the involvement of the third sector, the Minister stated he expected the NCS would be facilitated by a range of providers and that the “third sector will continue to be a major player in the delivery of social care.”

The Minister stated at both the national and local level the NCS “will work with specialist charity and third sector providers of social care as well as other third sector organisations in the field of social care to meet the needs of people.” He added that “improved carer support is one of the core objectives of establishing the NCS”.

Right to breaks from caring

Issues were raised in relation to breaks from caring including funding, potential savings, and provision of appropriate breaks.

Funding

CTS warned “the estimated costings in the financial memorandum are based on historical break uptake figures, and they do not reflect inflation or the estimated increase in the numbers of unpaid carers in Scotland and the need for a break.”

When it comes to young carers, CTS said that no resource has been earmarked for replacement care, something they say evidence has shown is necessary to enable breaks. Furthermore, they noted that the number of young carers the Scottish Government acknowledges is thought to be an underestimation. On the funding of

care, they stated that during the pandemic, carer services saw a 45 per cent increase in demand. Despite this, their budgets have predominantly stayed the same or had only slight uplifts. They note that the money needs to be in place in order that rights are upheld for unpaid carers.

Potential savings

Inclusion Scotland said according to the financial memorandum “there will be cost savings from allowing carers back into employment”, however they stated breaks “may be needed for leisure time or to care for others”, and “not necessarily for paid work”. They therefore warned restraint needs to be applied when accounting for potential savings.

Ensuring the delivery of accessible and appropriate breaks

MECOPP referenced instances of carers of different communities trying to access breaks that were culturally appropriate to them, but having the local authority turn these down as requests were outside the norm. As a consequence, MECOPP have legally challenged decisions in order to secure culturally appropriate breaks.

Inclusion Scotland added many carers are themselves disabled or have acquired new conditions as a result of Covid. For this reason, they said breaks that are “accessible and appropriate” also need to be available.

The Minister assured the Committee that “improved carer support is one of the core objectives of the national care service” and the reason that the Scottish Government has “enshrined the right to short-term breaks” within the Bill.

Visits to/by care home residents “Anne’s law”

The Scottish Government’s Programme for Government 2021-22 made a commitment to deliver ‘Anne’s Law’, which aims to strengthen residents’ rights in adult residential settings and give nominated relatives or friends the same access rights to care homes as staff while following stringent infection control procedures.

The Policy Memorandum states that:

“The Scottish Government’s policy objective for Anne’s Law (as part of the Bill) is to ensure that providers and public health teams give effect to visiting rights and to remove variation in practice in the sector including the use of blanket visiting bans by care home providers. In practice this will mean visiting will always be supported in line with directions issued by the Scottish Ministers.” (PM para 215)

Age Scotland supported the importance of consistency in providing care home visitation, however, they were concerned the law is taking too long to enact and questioned whether the spirit of Anne’s law would be captured by the Bill or associated guidance and regulations.

Inclusion Scotland said:

“On Anne’s law, I do not see how the proposal in the bill is different from what we have now in that, in an emergency situation, ministers can decide that people cannot access care homes. I do not understand how there is much change.”

The Minister said that the Scottish Government is committed to taking lessons from the pandemic to make certain that people are supported to visit those who are important to them. He said that the Bill will “give ministers the right to issue visiting directions to care home providers and ensure that they comply with those directions.”

Homelessness

Crisis discussed the issues faced by those who are labelled as having complex needs. They said those requiring support from a number of different services, ranging from health and social care to criminal justice and homelessness related services, may be seen as too difficult and “fall through the gaps”.

Crisis said the Bill’s Policy Memorandum states that homelessness is a housing issue and therefore not part of the NCS, however homelessness policy and the no-wrong-door approach emphasises it is a “shared public responsibility” to prevent homelessness. They considered it is essential that changes do not exacerbate the barriers or stigma already faced by people.

In terms of accountability regarding homelessness, Crisis commented:

“It is worth noticing that, for the first time, we are separating social care and homelessness. We are moving away from a situation in which social care and homelessness are dealt with by one public body that has local accountability to one in which homelessness is dealt with by one public body with local accountability and social care is dealt with by a different public body with a different kind of accountability. We need to ensure that the links remain and, to get that right, it is absolutely essential that we have strategic planning across the board. The experience of the end user must be at the centre, and if we do not get the functions behind that—the strategic planning, the shared objectives and the interagency budgeting—right, there is a risk that it will not be.”

The Minister stressed the need for the “interconnection of services”. Further to this, he said that the Scottish Government has already had its first meeting with the homelessness prevention and strategy group and will continue to liaise with the sector. He also said that the government is “introducing new duties to prevent homelessness”.

Follow up

We hope that this summary of the Committee’s evidence sessions is useful to the Health, Social Care and Sport Committee and assists with further scrutiny of the general principles of the National Care Service (Scotland) Bill at Stage 1.

If you have questions related to anything contained within this letter, please do not hesitate to get in touch.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'N. Don'.

Natalie Don MSP
Convener
Social Justice and Social Security Committee