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Dear Convener,

### **National Care Service (Scotland) Bill amendments**

I'm getting in touch to share further information about the amendments RCN Scotland would like to see to the National Care Service (Scotland) Bill, particularly in relation to ethical commissioning as raised by Paul Sweeney MSP during the evidence session on 24 September.

However, it's worth restating our overall position that, while we agree with the Scottish government's desire to improve the quality and consistency of services, we do not believe the Bill will achieve this objective or address the serious challenges facing services that are in crisis. COSLA has now withdrawn its support for the Bill and the shared accountability arrangement, and it has also been revealed that the Scottish government has so far spent £28.7 million on work related to the NCS. It is shocking that such a large sum has been spent progressing this Bill when frontline services are crying out for investment.

Fundamentally, the skills, contribution and impact of registered nurses in the community, primary care and social care must be better valued and recognised. Action to increase the number of registered nurses working in these settings must be prioritised and the delivery of fair work is vital for tackling serious recruitment and retention challenges. Nursing expertise is also crucial in the strategic leadership of the NCS, particularly given increasing levels of clinical need within social care settings and the fact that nursing is likely to be the largest part of the NCS workforce.

The delivery of fair work cannot wait until the creation of an NCS. As emphasised by all witnesses during the session on 24 September, the Scottish government should move swiftly to establish a sectoral pay bargaining system for social care. Nursing staff working within social care services should have comparable pay, terms and conditions (including sick pay) to those working in the NHS. Achieving parity is vital for tackling the workforce crisis within the sector.

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We agree with the Committee's view, set out in the stage 1 report, that ethical commissioning is an important mechanism for driving forward the fair work agenda, as well as for improving service delivery and outcomes. We want to see reform of social care deliver an improved commissioning process which:

- Is based on outcomes, not costs;
- Properly assesses unmet need and future demand;
- Ensures fair work for those working within commissioned services;
- Obliges and funds providers to be able to staff their services in accordance with the Health and Care (Staffing) (Scotland) Act 2019, ensuring that everyone using services has access to the nursing care they need.

We do not believe the Bill will achieve these improvements and are also clear that attempts to improve the experience of the workforce, and to improve commissioning practices, are meaningless unless they are backed up with sufficient resources to ensure employers can meet their obligations to provide fair work and to staff their services safely and in a way that properly reflects need. This must be a key focus for Ministers, but Ministers have failed to address the recent damning report from the Accounts Commission which showed that integration bodies are facing a financial crisis.

Given that the Scottish government continues to press ahead with the Bill, we would like to see the legislation strengthened in relation to fair work and ethical commissioning; a key issue highlighted in the Committee's stage 1 report.

- We support the Committee's recommendations that the Bill should include:
  - A clear and comprehensive definition of "fair work" setting out how fair work principles will be incorporated within ethical commissioning and strategic planning processes. The NCS strategy should detail how fair work principles will be incorporated within ethical commissioning and strategic planning processes and set out how these will be enforced.
  - Clarity on how fair work principles will be applied consistently across all NCS services and detail on how application of fair work principles will be enforced in practice across multiple and disparate providers.
- We do not understand why the Scottish government has removed reference to ethical commissioning from the Bill. We support the Committee's recommendation that the Bill include a clear definition of ethical commissioning, which should include fair work principles, including pay, terms and conditions and parity considerations.
- We also support the Committee's recommendation that provisions for rectification should be included within the Bill, alongside a complaints and whistleblowing process, should ethical commissioning and fair work practices not be realised in practice.

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- The Bill should also include a requirement for a review of ethical commissioning practices to take place.

However as highlighted above, efforts to deliver fair work and ethical commissioning will fail unless backed by significant investment in services and this is where Scottish government resources should be focused.

I hope this response is helpful as the Committee continues its consideration of the Bill and the draft amendments.

Yours sincerely,



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