



OFFICIAL REPORT
AITHISG OIFIGEIL

Public Audit and Post-legislative Scrutiny Committee

Thursday 28 September 2017

Session 5



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Thursday 28 September 2017

CONTENTS

	Col.
DECISION ON TAKING BUSINESS IN PRIVATE	1
“SELF-DIRECTED SUPPORT: 2017 PROGRESS REPORT”	2

PUBLIC AUDIT AND POST-LEGISLATIVE SCRUTINY COMMITTEE
22nd Meeting 2017, Session 5

CONVENER

*Jackie Baillie (Dumbarton) (Lab) (Acting Convener)
Jenny Marra (North East Scotland) (Lab)

DEPUTY CONVENER

*Liam Kerr (North East Scotland) (Con)

COMMITTEE MEMBERS

*Colin Beattie (Midlothian North and Musselburgh) (SNP)
*Bill Bowman (North East Scotland) (Con)
*Willie Coffey (Kilmarnock and Irvine Valley) (SNP)
Monica Lennon (Central Scotland) (Lab)
Alex Neil (Airdrie and Shotts) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Antony Clark (Audit Scotland)
Lorraine Gillies (Audit Scotland)
Zoe McGuire (Audit Scotland)
Fraser McKinlay (Audit Scotland)

CLERK TO THE COMMITTEE

Terry Shevlin

LOCATION

The James Clerk Maxwell Room (CR4)

Scottish Parliament

Public Audit and Post-legislative Scrutiny Committee

Thursday 28 September 2017

[The Convener opened the meeting at 09:01]

Decision on Taking Business in Private

The Acting Convener (Jackie Baillie): Good morning and welcome to the 22nd meeting in 2017 of the Public Audit and Post-legislative Scrutiny Committee. Will everybody make sure that their mobile devices are switched off or on silent mode so that they do not interfere with the work of the committee?

Agenda item 1 is a decision on taking business in private. Are we agreed to take agenda item 3 in private?

Members *indicated agreement.*

“Self-Directed Support: 2017 Progress Report”

09:01

The Acting Convener: Agenda item 2 is evidence on the joint Audit Scotland and Accounts Commission report on self-directed support. I welcome Fraser McKinlay, director of performance audit and best value, Antony Clark, assistant director, Lorraine Gillies, senior manager, and Zoe McGuire, auditor, who are all from Audit Scotland. I invite an opening statement from Fraser McKinlay.

Fraser McKinlay (Audit Scotland): We are delighted to bring to the committee today our report on the progress of self-directed support; as the convener said, it is a joint Auditor General and Accounts Commission report.

I will give you a wee bit of background first. Self-directed support, which is often referred to as SDS, aims to improve the lives of people with social care needs by giving them much more choice and control over their social care support, and that requires significant changes to the way in which social care has been provided in the past.

The 10-year self-directed support strategy was introduced jointly by the Scottish Government and the Convention of Scottish Local Authorities in 2010, and the Social Care (Self-directed Support) (Scotland) Act 2013 came into force in April 2014. The committee will remember that we published a report on readiness for the implementation of the act at that time and we found that councils still had a lot of work to do to make the cultural and practical changes that were needed to successfully implement SDS. Our more recent report looks more closely at people's experiences of SDS and at what is helping and hindering progress.

As members will see in the report, we found many examples of positive progress and the audit team heard some success stories from people for whom SDS was working well. However, it is clear that authorities have not yet made the transformation that is required to fully implement the SDS strategy, and we heard about people who are not getting the choice and control that is envisaged in the strategy and about some who were struggling with the process.

Social work staff are very positive about the principles of SDS and about the idea of the personalisation of people's social care. However, a significant minority of them lack the understanding and confidence that is needed to implement self-directed support successfully, and we found that staff need to be more empowered to

make decisions with people about their individual support. Where staff are well trained and supported, and they have permission and encouragement from senior managers, they are more able to be bold and innovative with people about their social care.

Members are aware that authorities are experiencing significant pressures from increasing demand and limited budgets. Within that context, changes to the types of service that are available have been slow, and authorities' approaches to commissioning can restrict how much choice and control people have. In particular, what is known as SDS option 2 looks quite different from one area to another.

There are some tensions for service providers between offering more flexible services and making extra demands on their staff, particularly when there are already challenges in recruiting and retaining social care staff in many places in the country.

We found that SDS implementation stalled during the integration of health and social care services. Managers' attention was inevitably diverted towards the arrangements for setting up integration joint boards and running and scrutinising those new integration authorities.

The report makes a number of recommendations for local authorities, the Scottish Government, COSLA and other partners involved in implementing SDS. Those are shown on pages 6 and 7.

As ever, we will keep an eye on the continued progress of self-directed support and, in discussion with the committee, might consider revisiting it in future.

The team and I are happy to take any questions that members might have.

The Acting Convener: Thank you, Mr McKinlay.

I record apologies from Monica Lennon and Alex Neil, who are not able to be with us this morning.

Colin Beattie will ask the first question.

Colin Beattie (Midlothian North and Musselburgh) (SNP): I would like to ask about budgets, because that issue is key to what we are talking about—unfortunately, money is central. The third bullet point in paragraph 62 says that fewer people qualify for social care support because of the tightening of their eligibility criteria by councils. It also says that

“the proportion of older people supported in care homes in Scotland has decreased from 38.4 to 33.3 per 1,000 population”

and that

“the proportion of people receiving homecare has also decreased, from 60.8 to 49.0 per 1,000 population”.

Those are quite dramatic drops. However, a couple of bullet points before, you talked about an 8.6 per cent increase in real terms of the cost of servicing a much-decreased qualifying population. Why is that?

Fraser McKinlay: In a nutshell, that relates to the demographic change that we are seeing. The significant increases in the number of older people mean that we have to spend more on social care, not only to keep up but to keep the system running. It is worth saying that the question of eligibility criteria is a long-standing issue in social care—it pre-dates self-directed support—so that has always been part of the equation that local authorities have had to balance in providing care. However, there is no doubt that the combination of reducing budgets for local authorities overall and increasingly demanding demographic changes in terms of the number of older people and their care needs is what is creating the squeeze.

Colin Beattie: Are you saying that the complexity of care has increased dramatically and has more than compensated for the reduction in the overall numbers?

Fraser McKinlay: I will ask Antony Clark to answer that.

Antony Clark (Audit Scotland): We touched on this issue in the report that we published last year on social work in Scotland. At that time, we reported that most councils have a common framework for assessing needs, with four levels of eligibility criteria. There is critical risk, which is a high priority; substantial risk, which is also a high priority; moderate risk; and low risk. Over the past few years, most councils have begun providing services only for people who are assessed as being at critical or substantial risk. The point that you have highlighted is that the threshold for receiving services is now higher than it used to be and that, therefore, the services that people receive tend to be more complex and, therefore, of higher cost.

Colin Beattie: Is that purely because of demographics?

Antony Clark: It is a combination of demographics as well as choices that councils have made in terms of the targeting of the resources.

Colin Beattie: I find the situation difficult to understand. There has been a fairly substantial reduction in the number of people in the system, which surprised me. That has been coupled with a 6.8 per cent spending increase in real terms. Does that make sense?

Antony Clark: The other factor that is worth bearing in mind is that of the cost pressures in terms of pay increases for staff and inflation in general across social work services. Those issues do not apply only to social work services; they also apply to other services that councils provide. That is also a factor in this discussion.

Colin Beattie: Later in your report, you talk about difficulties in getting staff, lack of staff availability and staff shortages. Are staff costs rising at a significant level, given that it seems to be impossible to get staff anyway?

Antony Clark: I would need to do a bit more analysis to answer that question properly. I can go away and look at it.

Fraser McKinlay: There are definitely difficulties in recruiting and retaining staff in social care. That is even with the changes that were introduced more recently in paying the living wage. It is an increasing cost pressure, but there is still very low unemployment these days in some places so it is proving difficult to get people into that kind of job.

When we are out there, we hear that the decision to leave the European Union is an added pressure and risk for relatively high proportions of non-United Kingdom EU citizens who are working in social care. Workforce is a real pressure for authorities across the land.

Colin Beattie: I am still trying to see the logic. There has been an 8.6 per cent real-terms increase. Staff numbers have not increased dramatically, although there might have been a bit of an increase because of the living wage. The number of people in the system who are receiving home care has gone down fairly dramatically, and the number who are receiving care in care homes has reduced significantly. I am just trying to see the logic and the figures do not seem to make sense.

Antony Clark: In our previous report on social work in Scotland—we can forward it to you, Mr Beattie—we had an exhibit that set out the changes in spending across the different services that social work departments provide, such as older people, children and young families and adult services. That demonstrated that expenditure on services for older people was relatively stable; there was an increase in spending on children and families services, and an increase in spending for 18 to 64-year-olds. If we forward that exhibit to you, it might help you to understand how the figures have all stacked up.

Colin Beattie: That could be useful because, on the face of it, what we are seeing here does not really stack up. Does funding for care come through the integration joint board?

Fraser McKinlay: Increasingly, yes, but it is worth bearing in mind that funding for the IJB comes from the health board and the council. The process is that the council and health board in an area agree how much funding goes to the IJB. It is then the IJB's job to commission the services required for the social care services that are within the scope of that integrated authority. It is also worth remembering that different IJBs have different services in scope.

Colin Beattie: Is the process working well?

Fraser McKinlay: It is early days. As we say in our report, there is no doubt that, in the past couple of years, the establishment of the integration joint boards has taken a lot of time, energy and focus, particularly from managers. As we said in last year's report, arrangements for IJBs are taking a lot of time and effort and that has, inevitably, diverted attention away from things such as self-directed support.

It is too early to say whether the system is working well. We are all up and running. We have just finished the first year of audit of the integration authorities. We propose to do a second report next year on how health and social care integration is going. We will bring that through around this time next year and we will bring the report to the committee. We should then be able to see the impact on services and the outcomes for people.

All the evidence that we have so far has been about things such as arrangements, getting ourselves set up and governance. We need to get to the stage of seeing the IJBs make a difference to services and to people's outcomes and, at the moment, it is a bit early to say.

Bill Bowman (North East Scotland) (Con): Sometimes I like to ask detailed questions and sometimes I like to take more of an overview. This morning it will be more of an overview.

Fraser McKinlay gave a balanced description of the situation in his introduction. My reading of the report and its key messages is that the programme is not going as quickly or smoothly as might have been hoped or expected. Who is responsible for that and who in the chain of command is holding things to account?

Fraser McKinlay: I will kick off on that and then perhaps ask Lorraine Gillies to come in. Mr Bowman is absolutely right in saying that the picture is mixed. We have seen some great examples of SDS working well for people, and in some case study areas—in places that are really committed to SDS—we can see culture change beginning to come through.

09:15

We also say that everybody—the Government, councils and everyone else involved in it—underestimated the scale of the challenge. It is fair to say that when the strategy was written, back in 2010, we would probably have expected to be further on as we sit here in 2017, seven years into a 10-year strategy. One of the concerns is that delivery is still far too inconsistent. Depending on where people live, they will get very different experiences; we heard a lot about that in all the research and audit work that we did.

I always feel as though I am in danger of fudging the question when I say that change is not about a single person, but here it has genuinely been systemic. If I were to characterise it, I would do so in two ways. First, the Scottish Government sets the strategy and policy, with COSLA. Our last report, which was published three years ago, said, quite rightly, that the Government had taken a very inclusive approach to developing the strategy, and that was well received. We can see the benefit of that now, in that the vast majority of people whom we speak to who are involved in social care think that the strategy is a good idea. At this point, we have not heard anyone saying that we should not have bothered. Since we did the report three years ago, there is now a lot of guidance and support out there to help people to deliver the strategy.

At the next level down, which is councils, health boards and, increasingly, integration authorities, there is no doubt that delivery is very patchy. There are lots of different reasons for that, some of which we tried to get into in the report.

Who is accountable for the strategy depends on where a person is. The national picture is that the Government is ultimately accountable, but, at local level, depending on how services are delivered, it will be a combination of the council and the integration authority.

Lorraine, do you want to add anything?

Lorraine Gillies (Audit Scotland): That was a very good description. I was involved in field work on the audit and was struck by those differences. The team had lots of discussions about whether the glass was half full or half empty. It was very difficult for us to come to a conclusion. As Fraser McKinlay said, there were some very good examples that we were quite excited and enthused about, in which creativity was clearly happening and people were having very good outcomes because of the way in which they had been empowered to engage with decisions about their support.

On the other side, we saw lots of examples in which people were not being empowered and where decisions were being made not with them but for them, which is clearly against the

landscape that we are moving into. It has been slightly disappointing that while we now have a landscape around empowerment and people are being encouraged to be more involved in planning their own support, it does not feel as though those have gone hand in hand. We have called that out in the report, and there is scope for having the landscape to take that forward.

I do not think that I have anything else to add, unless Zoe McGuire wants to add anything.

Zoe McGuire (Audit Scotland): No.

Bill Bowman: From what the panel says, it seems that good work is being done—I do not want to take anything away from that—but there are areas in which support or guidance is needed. I return to the concept of project management: is anybody project managing the whole thing?

Fraser McKinlay: There is a Scottish Government policy team and an outfit called SDS Scotland, which has a website, so the national infrastructure is in not bad shape. We saw leadership and how managers engage in the whole process as making one of the biggest differences locally. We used East Ayrshire as an example of a place in which we saw very clearly the most senior people in the social care function not only being accepting of the principles of self-directed support but actively promoting them as a way in which we now do business.

I have been reading the *Official Report* to remind myself of what I said when I appeared before the committee three years ago, which was that I had to get it into my head that it is not a case of someone either taking self-directed support or not; it is a new way of delivering social care services with people. That is the shift that people have to make. Some authorities are further down that road and doing well, but there are others that are less far down. A big part of that is about management and leadership.

Bill Bowman: Thank you. I take it from that that some leadership is still needed overall.

Fraser McKinlay: Yes.

Liam Kerr (North East Scotland) (Con): Good morning. May I pick up that leadership ball? Paragraph 9 of the report states:

“The Scottish Government continues to have a crucial leadership role to play in successful implementation of this transformational strategy.”

Does that mean that the Scottish Government has not been providing the required leadership? If so, can you give more detail?

Fraser McKinlay: Certainly, Mr Kerr. No, I do not think that that is what we mean in this context. As I said, the Government has gone about this whole exercise in a very inclusive way, and we

recognise, as I think everyone does, that everyone involved in it underestimated the scale of the challenge. From that point of view, I think that the Government has done the job that we would have expected it to do.

There is a question about funding, which we certainly heard. To be fair, the Government has been clear all along about what the funding is for and how long it is going to last. We are now coming to the end of that transition funding, so there is a question about what exactly the Scottish Government's role will be in generating the climate that I mentioned in response to Mr Bowman. That is what we are trying to get at here. Even though we are seven years into a 10-year strategy, this is absolutely not the time for the Government to take a step back and say, "Well, over to you, local authorities." There is still a need for national leadership to create an environment in which this new way of doing things can be embedded.

Antony Clark: Fraser McKinlay mentioned the finding in our first report that the Scottish Government was working in partnership with COSLA and local authorities. We found while we were doing this work that that story continues. There was very much a sense that the Scottish Government and local authorities are trying to work together to understand what needs to happen to make SDS real for people out there.

The joint COSLA-Scottish Government "Self-directed Support Strategy 2010-2020, Implementation Plan 2016-2018", which was published recently, sets out the actions that they plan to take in the next couple of years, in many ways to address the issues that we highlight in our report. They are focused on improving commissioning, creating a culture where staff have the confidence to be more innovative, and trying to ensure that they work together to streamline the system and to make it easier for people who try to access self-directed support to negotiate what, as we found in our audit, is often quite a complicated process.

However, there is a tricky balance to strike. The change cannot be micromanaged or imposed on local authorities. Local authorities, IJBs and health boards need to be able to respond to local circumstances, which is both an opportunity and a challenge in itself. We clearly want a consistent and well-developed approach across the country. The national leadership role is partly about setting the direction. It is also about working with all the other partners to understand how effectively the policy is being delivered on the ground. We made a recommendation in our report about strengthening and improving the quality of data around the extent to which people really are receiving choice and the policy is improving services and outcomes.

Liam Kerr: May I press you on that? I read the 2014 report, too. It appears to me that this is a potentially very good initiative, but you talk about micromanaging, and I got the impression from the previous report and, to an extent, from the latest one that the Government brought in the policy and almost said, "There you go. This is what you have to achieve, but we are not necessarily going to guide you particularly closely as to how to achieve it." That surprised me. Do you have any thoughts about that?

Antony Clark: I think that it would be a slightly unfair assessment to say that the policy was just handed over to local authorities. Fraser McKinlay has already mentioned that a whole range of groups are in place. Joint groups of the Scottish Government, COSLA, providers and experts are trying to understand what is happening at the local level and preparing guidance in a collaborative way. There is a sense of joint working to provide clarity, in so far as one can, about what should be happening at local level.

Liam Kerr: But should guidance not have been prepared beforehand?

Antony Clark: Guidance was prepared at the beginning. I am talking about people learning lessons from how implementation is going and then refining guidance so that things can be improved. This touches on the finding that people slightly underestimated the scale of the challenge. I think that people have learned a little as they have gone along about what they need to do to make SDS work more effectively.

It was a voyage into the unknown, to an extent. It involved trying to develop and implement a very different way of working and engaging with service users, and it was always difficult to predict how that should best be done.

Liam Kerr: Yes. You have alluded a few times to challenges being underestimated. The committee hears that quite a lot. Policies are brought in, and then we look at them some years later and say, "Oh dear". That situation concerns me.

Roughly £70 million has been spent on implementation so far. That begs two questions. First, do you have any insight into the modelling that was done at the outset that said that £70 million would be needed to implement the project? Was business planning done to show that that should be the amount? Secondly, if we look ahead, is there any learning to be taken from an assessment of what outcomes have been achieved, what key performance indicators have been hit and where best value has been achieved for that £70 million?

Fraser McKinlay: I will ask the team to come in on the specifics of whether we looked at the modelling. It is a very good question.

In general terms, we are frustrated—as I am sure you are—that the report is again one where we say that we do not know what the baseline is and we do not have a benchmark. We made a recommendation about that issue three years ago. Some progress has been made, but we still do not have good enough data to get under the skin of the scope and reach of SDS, and particularly option 2, which is the newest bit of the landscape. That is frustrating and, as you say, it is a common theme.

The question of how much things cost is related to that, in that it is difficult to find exactly what has been achieved for that money. I think that the Government would say that it was specifically to provide guidance and support to help with the transition so we would not necessarily expect a direct line to improved outcomes because it was about getting the thing set up.

I am also conscious from our work and the submissions that the committee has received that there is a debate between local government and the Scottish Government about whether that money was enough. That is a common debate and one that we hear in relation to lots of new policy initiatives, whether it is early years learning, SDS or anything else. There is always a judgment in there.

Your point about rigour in financial modelling and the business case that comes through the financial memorandum and the legislative process is well made, and we will take it away and think about what we may be able to do around that. Obviously, the modelling turns into real money when things are implemented.

I ask my team whether they have anything to say on the specifics of how the Government came up with the original figure.

Antony Clark: Because we were looking at progress to date, we did not really look back to see what was done at the start of implementing the legislation. A financial memorandum was prepared and there was a degree of scrutiny of that, and you will be aware from the correspondence that you have received from COSLA that there appear to be some on-going concerns about the overall level of funding to support implementation.

Liam Kerr: Yes. I would like to come back to that in a moment.

I understand that the funding will be turned off—if I can put it that way—in 2018. What will happen then? Why was that not planned for at the outset?

Fraser McKinlay: To be fair, the turning off, to use that phrase, was planned for. It was always the plan, so it is not a surprise to anyone. The funding was specifically for transition, and it has been managed as set out by the Government.

As I said earlier and as we say in the report, we understand that discussion is under way about what, if any, additional funding is required from the centre—from Government—to get the strategy to a better place of completion.

Antony Clark: As you might know from its submission, the Scottish Government has already committed to on-going funding for advocacy support and information services running through to 2021.

Liam Kerr: Talking of submissions—and this is my final question in this section—given COSLA's concerns regarding the Scottish budget process, does the Scottish Government need to take a longer-term and more flexible approach to local authority funding to enable implementation of this transformational strategy?

09:30

Fraser McKinlay: As you know, we are big advocates and fans of making things as long term as possible, and I would include local government and the NHS in that. Indeed, we have said it in relation to the NHS, and the Accounts Commission has said it in relation to local government funding. The more clarity and certainty that councils can have about overall funding into the future—and in turn clarity and certainty about the bit for social care and how that applies to SDS—the better. We absolutely encourage Government, where it can, to take a longer-term view, in the same way that we encourage councils to do so.

Antony Clark: This is not directly related to self-directed support, but in another piece of work that we are doing and which we will bring to the committee next year, we are looking at the planning for the expansion of early learning and childcare to meet the Scottish Government's commitments to expand access to publicly funded early learning and childcare by the end of this parliamentary session. That is an area where we understand that the Scottish Government has already committed to giving local authorities a three-year funding envelope so that they can plan with a bit more certainty and confidence. That sort of thing is happening to an extent.

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): I thank Fraser McKinlay for his earlier comments about the people in East Ayrshire and their role in the process. I know that they are heavily engaged in the work, and I believe that that is just the way that they do business—indeed,

as you said, it is the way that they see it. That is very encouraging; it is also encouraging to hear about so many success stories across the programme.

As usual with the committee, however, there are always opportunities to explore how we can improve the current situation, and in that respect, I want to turn to one of our favourite subjects: data gathering and evaluation. You have mentioned several times now the inconsistent approach to data collection that you saw in your inquiry. Can you give us a little more insight into how the different authorities are performing, particularly in relation to the options that people have? I am particularly keen to find out more about the take-up of option 2 and the picture across the landscape in Scotland.

Fraser McKinlay: I will kick off on that, and then ask Zoe McGuire to come in with some more detail.

As we say on page 14 onwards in the report, more reliable data is required—and we say that not because we are auditors and we like data, but because we think that it is important, that it helps with decision making and that it helps people understand their choices. For me, there are two levels to this. At the first and more basic level is the question of how people are accessing services and what options they are taking up. Even within that, however—and as we say in the report—option 2, which is the most innovative and newest option available, looks very different depending on where someone is. That might be expected, to some extent, and I am not saying that it is a bad thing, but the point is that we do not really know whether it is planned variation or whether it just happens to be different. It would be enormously helpful if we could understand that bit better.

Zoe McGuire can say a bit more about what we have done in the report. I should point out that in the next couple of pages—pages 16 and 17—we have pulled together the available data that begins to paint a bit of a picture about SDS. However, it is slightly impressionistic, because we do not have solid data on the choices.

Zoe McGuire: I do not think that we saw in any of the local authority areas that we went to anyone who had cracked the data gathering issue. It is quite complex and, in a lot of areas, it comes down to its being understood by computer systems, and to social work staff understanding the options that they are presenting and understanding that they have explained each available option to the service user. Some authorities are beginning to understand the issue and to get the computer systems in place, but if local authorities cannot gather the information well enough, it is very hard to aggregate things up to the national level. When we refer in the report to the need for better

information gathering, we are talking about the national statistics. However, the Scottish Government recognises the issue. The data is under development at the moment, but because there are a lot of issues with the numbers, we would not feel comfortable saying, “This is exactly how many people are getting SDS.” We just do not know at the moment.

Willie Coffey: Has there been any assessment of what the uptake should look like per authority? Are the authorities doing that work?

How do the people who exercise option 2 do that? Do they come forward and make a positive choice, or are they encouraged to think about option 2 as being the one that most closely reflects their needs?

Fraser McKinlay: It should work as you just described. Under the legislation and the guidance, you should come up with the best option for service users through meaningful dialogue and conversation with them, their carers and their families.

One challenge is that it is possible for that whole process to go really well and to be done in the spirit of SDS, but for people not to know that they have just had option 2. They are not necessarily sitting down with somebody saying, “You have four options, and this is option 2”. If it is a genuine conversation about their needs and about what has the best chance of improving their outcomes, they might not know that they have gone down route 2. I would suggest that it is important for the council and the providers to know which option is chosen—that is why Zoe McGuire’s point about the systems is really important—but it is not necessarily the case that the people who are on the receiving end know which option they are taking. Actually, that is a good thing.

As Mr Coffey said, the issue is that that is not what we see everywhere all the time. The Perth and Kinross model is interesting. Certain levels of staff are delegated certain amounts of money that they can commit without checking, although they keep track of it. We found that that helped the front-line workers’ sense of empowerment, as they know that they can commit up to £200 or £400 or whatever it is on services to improve the outcomes for a particular person. However, that is not the model that is used in other places, where things are more tightly controlled and people are a bit uncomfortable about more innovative or creative solutions. As Mr Coffey said, as well as the statistical issue about how many people get which option, there is also the difference in the experience that people have around the country—the picture varies enormously depending on where someone is.

Willie Coffey: Colleagues have mentioned budgets, which are the crucial factor. Do we have the balance right between supporting the choices that people wish to make about the options that they can exercise on their own behalf and the support service that we need to put in place to deliver that?

Lorraine Gillies: I think that it is as good as it can be, but I do not have a strong view either way on that. That is not a very good answer—it is terrible.

Antony Clark: As part of the audit, we did quite a lot of work with social workers, social work managers and support staff to explore what was helping and hindering the implementation of self-directed support. We anticipated that budgets would be the big story and, in some places, social workers and other staff said that the budget was a clear constraint on their choices and on their ability to implement SDS. However, that was not universally the case. We found variability across authorities and within authorities. Budgets are part of the story, but they are not the whole story with regard to what is helping and hindering the proper implementation of SDS.

Willie Coffey: Looking beyond the report, where will we go next? We are seven years into the 10-year programme and you have made some familiar recommendations—we have all seen and read them before over the years. If you came back again next year, what would you expect to see by way of improvement in data gathering, evaluation and so on?

Fraser McKinlay: We would expect the data that Zoe McGuire described as being currently under development to have moved on and to be much more reliable. We would expect a continuation and an upping of the pace with regard to sharing examples of good practice and ensuring that the learning in the system happens.

The really important point, particularly now that the governance discussion has happened on integration joint boards, is that we need those organisations to make a difference on the ground over the next two to three years. The next three-year period for IJBs is hugely important. You can forgive people a bit as they get things up and running, put in place sound governance arrangements and understand how the money works, as those things are important but, from the evidence on the ground, there is no doubt that doing all that has got in the way of things such as SDS. In an ideal world, IJBs and SDS would have been considered together—we would have looked at setting up IJBs alongside an approach to social care such as that set out under SDS. However, that did not happen. We have concentrated on getting IJBs set up and now we are coming back to upping the pace of SDS again.

I hope that in the next two to three years—the remainder of the period that the strategy covers—you will begin to see that consistency of experience and delivery, supported by better systems and data, being the norm across the country. That is where we need to get to.

Willie Coffey: To help that process to succeed, does the department have an independent evaluation planned or under way to assess and monitor it?

Fraser McKinlay: Yes.

Willie Coffey: When can we expect to see that?

Fraser McKinlay: The Government has—as you will see from its response, I think—a number of things in train that will help it to evaluate where it is as it gets towards the end of the 10-year strategy, so we expect to see a clearer assessment of the extent to which the strategy has achieved the aims that were set out 10 years ago.

Willie Coffey: I hope that, as constituency and regional members of the Parliament, we will be able to see how our respective local authorities have been performing. As well as the national picture, I would like to be able to see how well each local authority is doing with the programme. Thank you for your responses.

Liam Kerr: Before I talk about workforce issues, I note that several times you mention things being underestimated and, in paragraph 87 of your report, you describe what was underestimated. Have the Scottish Government or any of its partners explained to you why they underestimated the scale of change?

Fraser McKinlay: I suppose that the answer is, not really. I guess that that is because it was not just the Government—it was everyone. A lot of planning went into the strategy and its implementation, but it was very difficult to know at that point the sheer scale of the cultural change that would be required to make this thing work. In addition, a lot has happened and the world has moved on since 2010.

As you say, we list in the report some of the things that we have identified as not being anticipated or completed. Our sense is that it was not an absence of thought on the Government's part, or on anyone's part. It genuinely was the case that the scale of the cultural change was something that people had underestimated.

Liam Kerr: Do we not need to analyse that, though, in order to get adequate learning for when something like this happens again?

Fraser McKinlay: Yes.

Liam Kerr: Do we not need to understand the why as well as the what?

Fraser McKinlay: That is what we have tried to do in paragraphs 87 and 88, Mr Kerr. With the benefit of hindsight, we looked at what was planned, what happened and what was done, and we identify in paragraphs 87 and 88 the things that, with hindsight, we believe should have happened. As you say, we should look to learn those lessons for the future.

Liam Kerr: Thank you. I want to look briefly at the workforce. Zoe McGuire talked earlier about options being explained to users. I see that, at paragraph 53 of your report, you have a quote from somebody who says:

"In my view, social workers have become gate keepers for resources—they know the decisions being made at head office are wrong, and in some cases counter to the legislation, but they have no power to do anything."

Is it conceivable, in your view, that staff may identify several beneficial outcomes but that only those that are achievable with the resources that are being provided are presented as options?

Lorraine Gillies: Yes. We certainly had those discussions with front-line social workers in our case study or fieldwork. It all seems to come down to leadership and permission. If a social worker had permission to think outside the box and be innovative and creative, we could follow that through to the outcome for the service user. Where permission was not clear or there were different understandings of the purpose of self-directed support, we saw some differences in the outcomes that were being achieved by the service user.

To put it crudely, if there is buy-in that this is about people being able to have that discussion and those really tricky conversations about what is the best thing for them then, by and large, the social workers are able to deliver on that. If there is a sense from front-line staff that the proposal is tricky, is difficult to do, is a wee bit strange, or is not on the list of things to do, those conversations can be more difficult.

Fraser McKinlay referenced the Perth and Kinross model. We certainly found that, where there was implicit permission for social workers to have a threshold, they were able to be more creative and innovative in the discussions that they were having with people.

09:45

Fraser McKinlay: The point that you make, Mr Kerr, is absolutely right. You describe something that we can see to varying extents across all public services. For example, doctors have similar choices to make about the balance between the best possible care that is available and the cost that is associated with that. There is always that kind of balance to be struck.

As Lorraine Gillies says, the system works well when there is an explicit conversation between the service provider, the social worker and the service user that allows people to say that, although one thing might be the best thing that could be done, it will cost too much to do, so another approach must be found. Things are more problematic in a situation in which the social worker feels very constrained with regard to even having the conversation in the first place, which results in the service user hearing the message, "We just can't afford it, as there is no budget for it"—that is what we were getting at in paragraph 53. Such a conversation is different from one in which people are trying to explore what the solutions might be.

The qualitative nature of that approach is important, which is why, in this report, we have done a lot of qualitative work in terms of speaking to service users and social workers. That is where you really begin to get under the skin of the issues.

Antony Clark: One of the important messages that came through from the qualitative work with service users and carers concerned differences in terms of the transparency of the process. Some people were clearly saying that they were not entirely sure how much money was available either in actual or nominal terms, which meant that they did not feel that they were necessarily able to make a fully informed choice or participate properly in the discussion about themselves or the person for whom they are caring.

Liam Kerr: In key message 4 on page 5, you say:

"At the same time, there are already challenges in recruiting and retaining social care staff across the country owing to low wages, antisocial hours and difficult working conditions."

That begs two questions. First, given the increases in relation to early learning and childcare that Antony Clark talked about earlier, how will the commitments under SDS be resourced in a context in which the demands on the staff are increasing significantly?

Fraser McKinlay: It is very challenging. There is no indication that, beyond the transition support and support for advocacy that we discussed earlier, there will be more resource for this. That is why the approach must be more about a shift in ways of working than investment.

There is no doubt that the point that you make is correct: the demands for care staff across the board will be hugely challenging. As you know, earlier this year, the Auditor General issued a report on the NHS workforce, and we are keenly awaiting the joint Scottish Government and COSLA workforce plan around health and care, which we expect to be published around the end

of this year. We will consider that closely, as that is where we would expect to see the response to the significant challenges that you have just described. The challenges are not just to do with an increased volume of work; they are also to do with the nature of that work, particularly around the fact that SDS asks quite different things of front-line social workers and care workers.

Liam Kerr: That is exactly right. The second question that is begged concerns the fact that the issues that you identified—low wages, antisocial hours and difficult working conditions—will presumably not be changed by the developments later in the year. Do you see anything changing and, if not, do you see the challenge being solvable?

Fraser McKinlay: The report tries to capture the challenges involved and, to an extent, the perception of care work at the moment. We are trying to consider issues that are relevant to a genuine attempt to changing how care is provided and delivered.

For example, if, in 10 years' time, we get to a place where home care is not provided on the basis of 10-minute slots—if we manage to find a different and better way of providing home care—the profession of home care worker might be more attractive to people. The two things go hand in hand. We would expect the workforce strategy at the end of the year to ask not just how today's problem should be dealt with, but what the service needs to look like in five or 10 years' time and, based on that, what recruitment, training and promotion—all of that stuff—is needed to start to make home care a more attractive career option for people. It is those kinds of things that we would be expecting to come through.

Antony Clark: This is not just about the role that social workers, health staff and the third sector play. The other dimension to this is the role that communities play. When we were doing our fieldwork, we saw some quite innovative and thoughtful practice. Local authorities and IJBs had thought about what the Community Empowerment (Scotland) Act 2015 might mean for the role of communities in supporting people, and that added dimension might reduce the pressure on public sector resources.

Lorraine Gillies: I was just going to make that point. Some local authorities know that this is a worsening issue and are trying to innovate. For example, Western Isles Council has done some work with Skills Development Scotland to try to attract young people into caring. That is a difficult thing to do—it is a challenge—but it feels like the resources and demographics that people are working with have led them to start having discussions.

Liam Kerr: Forgive the daft-laddie question, but there are obviously people doing some really good things. How is that best practice being captured and shared across the piece?

Lorraine Gillies: We have described a lot of support agencies and organisations, particularly in the third sector, that support innovative and creative thinking. There are lots of examples of practice exchanges and people trying to come up with new ideas and discuss the particular issues and challenges that they face. This is a live issue—people are very aware that it is an issue, and there have been various attempts to have those discussions, to share practice and to look at where people can do things a little bit differently. We were hoping to hear more about cluster ideas. Zoe, do you want to elaborate on that?

Zoe McGuire: I will pick up on that a little bit. The idea of self-directed support is that someone goes in and has their outcomes assessed. We met a young man who had quite severe learning disabilities. In a traditional model, he might have gone into a care home but, under SDS, he went under option 1 and got a direct payment. His personal assistant was a friend from school, so he received peer-to-peer support rather than more traditional care. It worked really well for him. He met his outcomes: he went to school and then college, and was able to actively participate in society.

Given some of the issues around traditional care work, you can see that if we talk and think about care workers in a slightly different way, such work becomes a better option.

Bill Bowman: I want to come back to the big picture rather than the individual ones. You have presumably seen the Scottish Government's responses to your points. Have you been given the answers that you would hope to hear? The Audit Scotland report suggests ensuring

"that the requirement to effectively implement SDS is reflected in policy guidance".

The Scottish Government's response is that

"This recommendation will be examined and progressed"

and that

"this will ... add new impetus to implementation of Self-directed Support".

There are things going well but there are things not happening. Someone else asked you what you might see in a year's time, and you spoke about a 10-year timescale. It does not sound as though the Government is taking this on board and is going to do something about it.

Fraser McKinlay: There are two things in there. As ever, I would have liked the responses to have been more specific, and I accept that that

response in particular could have been more specific. That does not necessarily mean that the Government is not taking the issue seriously and is not doing quite a lot of work on it. I would not go that far.

We think that that point is really important. If SDS is genuinely about a different way of operating, it needs to be built into everything else. At the moment, it still feels a little bit siloed—as though there is an SDS policy over here, a childcare policy over there and the Community Empowerment (Scotland) Act 2014 over here. All those things need to come together. That is why we made the recommendation. Of course, we will look carefully at the reform of the adult social care programme as it progresses.

I guess that we are content with the response from Government. We would have liked for it to have been more specific in some places about the action that it is now taking but, to give assurance to the committee, we will continue to keep close to the issue as we progress towards the end of the strategy.

Bill Bowman: Do you see something behind the scenes that suggests that, goodness, this report is a wake-up call and we need to do something?

Fraser McKinlay: I am not sure that it has been a wake-up call, because I think that the Government would say, with some justification, that it has been awake to this for a while. As Antony Clark mentioned, a lot of what we have raised in our report and recommended is contained in the Government's strategy action plan for the next two years, 2016 to 2018.

I could speculate that that might have something to do with the fact that we were doing this audit—they knew it was coming and, behind the scenes, they knew what we were likely to say. If that is the case, I am delighted that it has moved the thing on.

The process has been on-going. What we are saying now—and I think that the Government agrees—is that a step change is required in the pace and coverage of implementation. That is the key thing. A lot of good work has been done, but we are now at a place where it needs to be happening more consistently in more places.

Bill Bowman: They are awake, but they just need to get out of bed, maybe. [*Laughter.*]

Willie Coffey: What are your thoughts on ultimate choice? Perhaps a service user decides that they need this or that, and an assessment disagrees—not on the basis of cost, where Liam Kerr was leading us earlier. Let us say that there is no cost issue. Who makes the ultimate decision?

In exhibit 6 of your report, on page 27, there is an example of someone you refer to as George. He decided that he did not want care on a Saturday so that he could save up the money for a carpet—I suppose I should ask whether George got his carpet. Who, ultimately, made that choice? If a service user wishes something that the professional team disagrees with, where do we sit?

Fraser McKinlay: That is the core question at the heart of SDS, Mr Coffey. The starting point is the safety and wellbeing of the service user. I guess that, at that level—to use this terrible word—the professionals will say, “That is just not a good idea.” We say in the report that there are cases where that element of choice is not really available to people. Even if they want to do something different, the needs assessment can say, “No, that is not a good idea.” Antony Clark's idea about transparency and discussion is important here. It is important that people understand why that is the case, rather than just being told that they are not getting something.

We highlighted some challenging scenarios in relation to risk in exhibit 6 because, as well as the money issues, there are some big reputational risks around some of this stuff, for authorities in particular. The carpet is a good example—you can imagine some of the local news headlines if public money was being spent on somebody getting a new carpet. That is why the leadership question is important and why front-line social workers operating in a clear policy environment is important.

The report also has a case study about Highland Council—which I think was coming from a good place—trying to provide clarity about what was and was not okay. The letter it sent out was not received positively by people, because they felt that things were being prejudged and decisions were being made even before they had had a conversation.

It is very difficult, and there will be judgment. That is why meaningful dialogue among all parties is so important. That gives a better chance of getting to an answer that everyone is comfortable with, rather than there being a more transactional discussion, which is somebody coming along saying, “I want this big long list” and somebody else saying, “You cannot have ten of those things; you can only have two.” That will not work.

10:00

Lorraine Gillies: We definitely considered that when we were conducting the audit. We approached the audit in the way that we did, and used the methodology that we did because we were clear that if we took a more process-based

approach, we would be able to tell only some parts of some stories. It was important to us that we were able to talk to people who are using self-directed support—and their families and their carers—to try to understand some of the nuanced, tricky stuff.

It was a challenge for us to try to present that in a way that showed some of those tricky conversations and how they could be perceived, because some difficult decisions are being made by front-line social workers who are being trained and supported to be able to use their professional judgment in a way that is about an outcome for the person they are working with.

There are clearly some challenges up and down the line of command around accountability and supporting those decisions. We talked a lot to social workers who loved self-directed support because they felt that it is what social work is about—they were actually able to help people to get what they wanted—but there were some tensions around budgets and what people might think and so on. We came across that throughout the piece of work that we did and I hope that we have been able to show, through the report, the complexity of the decisions that are being made with people.

Antony Clark: Lorraine Gillies makes an important point about the link between outcomes and choice. The SDS model involves a very different way of thinking about the kind of support that people should receive. Previously, as you know, people would simply be put into boxes, almost—it was about whether they needed this or that service.

This approach is about trying to think about people's needs and identifying how you might develop and deliver different services or combinations of services in quite different ways. In the report, we highlight the Care Inspectorate's assessment work on how social workers feel about planning for and assessing outcomes. The extent to which the support plans that social workers are agreeing with users and carers focus on outcomes shows a striking trajectory. It has gone from half of the plans in 2014 having outcomes at their centre, to three-quarters of the plans in 2016-17. That is quite a big change.

Part of the tension is around social workers beginning to understand whether the conversation and the service will deliver outcomes, along with the cost dimension to the discussion. It is about judgments—people will have different judgments about what is right in terms of the services and the use of public funds, which adds to the complications of the process for everybody.

Willie Coffey: Is there still a big issue around local authorities, social workers or occupational

therapists perhaps fearing litigation if they recommend something for a person that is ignored? Are there any cases where the service user has proceeded with their choice against the recommendations of the social worker?

Fraser McKinlay: The team will keep me right but I do not think that we came across that issue. Social workers' concerns were not to do with being sued or around litigation. They were more to do with questions such as, "What happens if this doesn't work? Can I spend the money? How's it going to look? What's my manager going to say? Do I have permission to do this kind of thing?" It was those issues more than a specific thing.

Just to be clear, the concept of best value remains incredibly important in this whole discussion. The decisions that are taken, however innovative and creative they are, need to stand up in terms of the outcomes, best value and value for money.

In an ideal world—we have some examples in the report—you can do all those things. You can improve outcomes, it can be less costly and therefore value for money, so best value is delivered. Of course there is a need for local authorities—managers in particular—to have an eye to issues of best value and reputational risk.

The Acting Convener: I will go back to the point that Colin Beattie raised, because it is helpful to capture some understanding of this. Mr Clark helpfully outlined the framework by which social work allocates resources. There is critical, substantial, moderate and low risk, and basically the top two are the ones that get funded. Is the fact that there is greater spend on fewer people a reflection of the fact that that money is going towards complexity and crisis rather than prevention? Is that a fair comment?

Fraser McKinlay: That is a reasonable conclusion to reach. As Antony Clark said, that bar has been raised over the years and the bulk of the increasing resource is being spent on longer-term and more complex cases. That money is therefore, by definition, not being spent on prevention. However, that does not necessarily mean that there is not any preventative work happening; it is just that the money for that work is perhaps not being spent out of that particular budget. There can be lots of preventative work in the community, housing and so on that can help prevent people from getting into the top two categories in the first place. There is not necessarily a direct line, but the bulk of the money is now being spent on the top two categories, so your analysis is sound.

The Acting Convener: I remember debates less than a decade ago where we talked about shifting the spend to prevention in order to help

people avoid getting to the more complex and costly stage. I assume that if my analysis of what is happening across the board is correct—you have accepted that it is—it is happening within SDS as well and it is simply funding complexity rather than anything else.

Fraser McKinlay: I do not think that that necessarily follows. As I said earlier, the question of eligibility criteria and decisions being made locally has always been there in terms of social care. In a sense, that has not changed and it would be the case regardless. If anything, it could be argued that the self-directed support approach would ease the pressure because it would allow more engagement with the people who need the services in the lower two categories, so it would be part of the solution. However, there is no doubt that constrained resources across the piece inevitably makes it harder for people to change significantly how they go about their work.

The Acting Convener: I agree. I would have thought that it would lead to earlier intervention and therefore more prevention. However, we do not have the data that would take us there. Key for you, therefore—one of my colleagues pursued this—is getting the data set right so that we are able to truly measure effectiveness. What discussions have you had with the Scottish Government and COSLA in that regard? Do you sense that they will get to the right place? You made a recommendation on the issue in 2014, but I do not think that they paid much attention to you then.

Fraser McKinlay: We are always hopeful, convener. To be fair, we now have a data set that, although under development, is one that we did not have a few years ago. Our sense is that it will continue to be developed. We also have the responses to the current report, and whatever the committee decides to do with the report will add weight to it. However, I could not agree more that data is an important issue, not for its own sake but in terms of ensuring that the policy is well delivered and implemented across the land.

The Acting Convener: Colleagues have explored budget issues with you. Typically, my constituents say “Oh, there’s no money and that’s why we can’t get the package that we think we need.” However, the scale of change is something that everybody has raised with you. I remember direct payments being introduced in legislation in, I think, 1996 and I think that SDS is built on direct payments. Exhibit 3 in the report shows the uptake figures by local authority for 2015-16. How does that differ from the uptake previously? Is there substantially more uptake of direct payments now that we have self-directed support? Or is the position now broadly in keeping with the previous trend?

Fraser McKinlay: One of my team might be able to help with that.

Zoe McGuire: There has been an increase in the uptake of direct payments, but we have to be cautious about how we read some of the data. The more traditional direct payments data shows that about 5 per cent of people who receive social care services are now taking direct payments. The data around self-directed support is not brilliant, but of all those people who have been assessed and have choice and control, 11 per cent have gone under option 1. Some of those people are therefore receiving SDS and some are not, but it is quite difficult to unpick that. We have to be cautious about the numbers and ask whether it is a good thing or a bad thing that there is an increase in direct payments. As we explain in the report, it could be a good thing because it is the best way for a person to achieve their outcomes; alternatively, they could choose direct payments because there are no other services that they could have. It is hard to unpick that complexity.

Fraser McKinlay: The green line in exhibit 2 of the report demonstrates what happened to direct payments between 2010 and 2016. There was a very gradual increase in the uptake, but the figures still strike me as being quite low, given how long direct payments have been available. As Zoe McGuire says, it is difficult to attribute any increase in direct payments to SDS. We just do not have good enough data to tell.

The Acting Convener: We might think that an increase in direct payments would be a consequence of enhanced choice for people, but as you say, we cannot tell at this stage.

I have a couple more questions, but I will let Colin Beattie in.

Colin Beattie: Sorry to be obsessive about budgets, but there might be something important behind this. Key message 3 on page 5 of the report states:

“Authorities are experiencing significant pressures from increasing demand and limited budgets”.

At the same time, paragraph 88 mentions a “smaller workforce” and, as I said earlier, paragraph 62 indicates a substantial decrease in the number of people taking up the service, but the budget increased by 8.6 per cent in real terms between 2011-12 and 2015-16. Do we have a breakdown of what services people are using? Something significant has obviously changed, and that is having an impact on costs, which it seems to me should be reducing, not increasing.

Fraser McKinlay: I am not sure whether we have a specific breakdown of the services. In a nutshell, as the acting convener said a second ago, this comes down to the complexity of the care

requirements of the people who are now in the care system. People are living longer and have more and more complex health and care needs. That is why we see the pattern that you describe.

Colin Beattie: It would be interesting to see analysis that showed those changes happening. To plan for the future, we obviously need to understand what is happening behind this. On the face of it, the indications are that it should not be happening.

Fraser McKinlay: Indeed. We did a bit of analysis in our social work report last year that estimated how much more would need to be spent on social work services in Scotland, all things being equal. We tried to follow the demographic trend that we have just been talking about. I forget the number that we came up with, but Antony Clark might have it.

Antony Clark: The potential cost increase, unless services change, is £667 million by 2019-20.

Colin Beattie: And that is for a reducing number of people.

Antony Clark: I am cautious about the idea that the number of people is reducing. Part of the story is the increased externalisation of services. Not all social work and social care services are provided by local authorities or by IJBs; there is significant use of the third sector and the private sector. You are probably talking about social work staff who are employed by local authorities and IJBs, but a significant proportion of staff are employed in the third sector and the private sector.

Colin Beattie: Would that affect the absolute number of people who receive home care and so on?

Antony Clark: No, but it would affect your point about spend versus the number of staff providing social work services.

Colin Beattie: So the spend would increase—

Antony Clark: It would be the same.

Colin Beattie: —because you are still contracting out to third parties.

Antony Clark: Sorry, I did not make my point very clearly. You drew a parallel between changes in social work spending and changes in the social work workforce. I think that you were probably citing a figure in our report that refers to staff in the social work workforce who are publicly employed. The point that I was trying to make is that a significant proportion of staff work in the private sector and the third sector. That needs to be factored in when we look at the cost dynamic. One needs to look at the overall spend on social work services in the public sector, the private sector and the third sector, and at the staffing levels in those

three sectors. We can come back to you on that, if you would find that helpful.

Fraser McKinlay: The interesting thing to bear in mind is that we see this trend in lots of the work that we do. The NHS overview report that the Auditor General produces every year also recognises the cost of that increasing demographic. The reason that we are keen to encourage Government to ensure that all those things are joined up is that the people who are involved tend to be the same people. The people who are receiving that kind of care are also likely to be the people who are in and out of hospital, so it is absolutely right to take a person-centred approach—to use that terrible phrase—and we are encouraging Government to get the right data, processes and systems in place to ensure that that is actually happening on the ground.

10:15

The Acting Convener: I have a couple of final questions. I am conscious that social work operates through commissioning. There are collective services, so there could be a day centre that 40 people might attend at different times during the day or the week. If one, two or three people decide to pursue a different choice and withdraw from that service, how does commissioning change to factor that in? Have concerns been expressed, particularly by those in local authorities, about the sustainability of those collective services?

Fraser McKinlay: I will ask the team to come in on the specifics of commissioning, but the short answer to your question is that there are some concerns about that. One of the things that councils recognise as a potential risk is that, if there are more individualised and personalised packages and people are choosing different things, you also need to think about the impact on other services. That is something that we have heard and have reflected in the report.

Antony Clark: That is a topic that we covered in some detail in the “Social work in Scotland” report, where we highlighted the need for social work departments—which is what we were talking about at that time, rather than IJBs—to think differently about strategic commissioning in the context of health and social care integration and self-directed support. We cited some good examples of social work departments working with the third sector and with service users to work out how services need to change over time, but we also highlighted a number of examples where providers felt a little bit excluded from those decision-making processes. It was pretty clear from our work at that time, and from previous work that the Care Inspectorate has done, that there is still scope for social work departments and IJBs to get better at

mapping out the changing demographic needs and trying to identify scenarios and models of how services might change. It is a risk, because there is a degree of uncertainty and a need for better data in that area.

The Acting Convener: Did you find any evidence that the findings of your previous report had been taken on board?

Antony Clark: The report was published only last year and we have not followed it up yet. That is something that we will look at next year, when we do the work on health and social care integration that Fraser McKinlay mentioned, which will involve a consideration of locality planning via IJBs. That will be an important part of that story.

The Acting Convener: The committee might engage in some post-legislative scrutiny, and this is one area and one piece of legislation that has been suggested to us in that regard. I am keen to tease out whether you think that there is a problem with the legislation. Is it too permissive? Is there a problem with implementation? In the area of social work services in particular, there tends to be a postcode lottery, whether that involves differences in charging or in assessment, and that becomes confusing for people who are trying to access services. Is the guidance that the Scottish Government issues statutory, or is there flexibility for local authorities to interpret in their own way? I am looking for a general feel from you.

Fraser McKinlay: On the final question, there is statutory guidance that was produced when the 2013 act was passed, but inevitably it is quite broad, because the whole point of the exercise is to give people the flexibility and freedom to design services around individual needs. However, that does not answer your question about whether it is the legislation or the implementation that presents a problem. My sense of it, having been involved in two reports since the policy and legislation on self-directed support were introduced, is that it is a question of implementation. We have not heard anyone at any point saying either that the policy framework is a problem or that the legislation is a problem, or indeed that the guidance is a problem. In fact, everyone speaks positively about all those things, and everyone involved seems to be comfortable with all of that.

The question, then, is about what is getting in the way of it happening, and we have tried to tease out some of those things in our report. There is always a balance to be struck between something being a postcode lottery and something being genuine localisation. Councils and individual social work departments or IJBs need to be able to explain why a thing is as it is. Otherwise, they open themselves up to accusations of it just being a bit random. That is where we still are, and the report says that, for no obviously good reason, the

way in which those services are delivered, both within local authority areas and between local authority areas, is still too patchy. That is why I am not at all surprised that you have had a lot of interest in the issue, because it touches a lot of people's lives in very important ways, and of course people talk to one another, so if there is somebody they know, either in the same area or in the next-door area, who has had a very different experience, they will wonder why it is different from their own experience.

You mentioned commissioning. As an example of that, we have talked about the use of framework agreements as one way in which some authorities are operating, and we have an exhibit that says that there are lots of good things about that, but the danger of a framework agreement is that it can be perceived as saying, "There's lots of choice as long as it's on this list." We come back to those questions of management, leadership and culture, which are the things that, at the end of the day, will make the difference, but they need to start making a difference in some places quite quickly.

The Acting Convener: Is there an appeals mechanism? How many have accessed it? That is usually an indicator of whether the process is working effectively.

Antony Clark: There will be a complaints process within local authorities. I am not sure whether there is a formal statutory appeals process, but we will look into that and get back to you.

The Acting Convener: Thank you. That is helpful. I thank the witnesses for their attendance this morning. Do not rush away. The committee will be going into private session, but we would like you to stay behind.

10:21

Meeting continued in private until 10:35.

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