



OFFICIAL REPORT
AITHISG OIFIGEIL

Health, Social Care and Sport Committee

Tuesday 31 October 2023

Session 6



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Tuesday 31 October 2023

CONTENTS

	Col.
DECISION ON TAKING BUSINESS IN PRIVATE	1
NATIONAL CARE SERVICE (SCOTLAND) BILL: STAGE 1	2

HEALTH, SOCIAL CARE AND SPORT COMMITTEE
31st Meeting 2023, Session 6

CONVENER

*Clare Haughey (Rutherglen) (SNP)

DEPUTY CONVENER

*Paul Sweeney (Glasgow) (Lab)

COMMITTEE MEMBERS

*Stephanie Callaghan (Uddingston and Bellshill) (SNP)

*Sandesh Gulhane (Glasgow) (Con)

*Emma Harper (South Scotland) (SNP)

*Gillian Mackay (Central Scotland) (Green)

*Carol Mochan (South Scotland) (Lab)

*David Torrance (Kirkcaldy) (SNP)

*Evelyn Tweed (Stirling) (SNP)

*Tess White (North East Scotland) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Rachel Cackett (Coalition of Care and Support Providers in Scotland)

Lisa Ehlers (Inclusion Scotland)

Dr Jim Elder-Woodward (Inclusion Scotland)

Rob Gowans (Health and Social Care Alliance Scotland)

Dr Donald Macaskill (Scottish Care)

Lilian Macer (UNISON Scotland)

Dave Moxham (Scottish Trades Union Congress)

Cara Stevenson (GMB Scotland)

CLERK TO THE COMMITTEE

Alex Bruce

LOCATION

The Sir Alexander Fleming Room (CR3)

Scottish Parliament
Health, Social Care and Sport
Committee

Tuesday 31 October 2023

[The Convener opened the meeting at 09:15]

Decision on Taking Business in
Private

The Convener (Clare Haughey): Good morning, and welcome to the 31st meeting in 2023 of the Health, Social Care and Sport Committee. We have received no apologies, and Tess White will be joining us remotely.

Agenda item 1 is to make a decision on taking business in private. Do members agree to take items 3 to 5 in private?

Members indicated agreement.

National Care Service (Scotland)
Bill: Stage 1

09:15

The Convener: Agenda item 2 is evidence taking on the National Care Service (Scotland) Bill. Our first panel comprises representatives from trade unions, and I welcome to the meeting Dave Moxham, who is deputy general secretary of the Scottish Trades Union Congress, who is joining us remotely. We are also joined by Cara Stevenson, who is organiser for the women's campaign unit at GMB Scotland. We hope to be joined by Lillian Macer, who is the regional secretary at Unison Scotland, and who unfortunately has been delayed.

We will move straight to questions. I call Stephanie Callaghan.

Stephanie Callaghan (Uddingston and Bellshill) (SNP): Thank you, convener. I thank the panel members for coming along this morning.

As we know, stage 1 of the bill has been extended to find compromise and consensus. What impact do you expect the agreement between the Scottish Government and the Convention of Scottish Local Authorities on shared accountability to have on the national care service proposals?

Cara Stevenson (GMB Scotland): Obviously, we welcome that local accountability is going to be considered, but things are still moving really slowly. There is no pace. Co-design sessions are on-going with lived experience groups and so on, but as far as I am aware, COSLA has not really been a part of them. Our members are still concerned about how things are moving and the way in which things are being done. For example, we were not aware that discussions were taking place with COSLA until after they had happened, and our members are now starting to believe that things are being done without people being fully aware of the full picture.

Stephanie Callaghan: Perhaps I can follow up on that. Are you expecting any particular impacts on your trade union membership from that shared legal accountability?

Cara Stevenson: To be fair, we do not know enough about that right now. Whenever we ask questions, we are told that things are the subject of co-design, and there have been no guarantees as yet. Because it is a framework bill, we are still not clear about how things will play out. For example, who will be on the national care board? What will it do? What will be its responsibilities, and how will they be shared? We are still a bit unclear about all that. I am sure that things will

become clearer as we move forward, but at the present time, there is still a lot of concern and worry around how things are going to be delivered.

Stephanie Callaghan: I will come back to the national care board in a wee minute, convener, if that is okay. I just want to give Dave Moxham the opportunity to respond to my first question.

Dave Moxham (Scottish Trades Union Congress): Thanks for the opportunity to give evidence today.

From the perspective of the wider trade union movement, I would say that one of the fundamental concerns about the original bill was the potential removal of local authority control—and, potentially, local authority direct employment. We have yet to see any clear evidence of that having been significantly rethought.

I think that you alluded to the Verity house agreement and the overall relationship between central Government and local government. To be frank, I have to say that that has not had a good couple of weeks, and we very much hope that, in the next process, central Government will listen very closely to local government, with whom we broadly concur on the democratic and broader partnership arrangements for the delivery of social care under a new national care service.

We very much hope that progress can be made relatively quickly to meet some of the concerns that COSLA, ourselves and others have about local accountability and local provision, and that some of the more concerning developments with respect to relationships between the two forms of government can be repaired as quickly as possible.

Stephanie Callaghan: Are people reassured by the fact that it is no longer proposed that there will be any transfer of staff or assets from local authorities? Has that provided reassurance?

Dave Moxham: Partly, but we have yet to see how that will pan out in terms of the respective roles of the national body and local authorities.

As I have said, it is to be hoped that we are on a positive path to reaching the goal that we want to end up reaching, but, as Cara Stevenson has said, and as would be said by other trade union members, there is still a high degree of uncertainty about exactly what the end point will be. At the most fundamental level, there is a need for regular communication with the organisations that represent the workers in the sector.

Stephanie Callaghan: That is helpful.

Cara, you mentioned the national care board. What do you believe its role and purpose should be?

Cara Stevenson: The perspective of GMB members is that there should be full representation from the workforce on the national care board, that those representatives should have full voting rights—in other words, they should not be there in an observer role—and that the same should apply to service users with lived experience. We think that that is the only way in which a national care board would work.

Currently, we operate in integration joint boards, on which, as you know, the workforce on the ground and the people who use services have no voting rights. We think that, with a national care board, there should be a fundamental change in how the system operates. We think that the only way it will work is if people on the ground and people who use services have input to decisions that are made at the national level. They need to be able to consider any concerns and any issues at national level so that those issues can be resolved in real time on the ground.

Stephanie Callaghan: What do you think will become of the role of the integration joint boards that exist presently?

Cara Stevenson: That is not for me to decide. From a GMB perspective, currently, we do not feel that the IJBs are a true representation of the members we represent, who have no effective voice because our representatives do not have voting rights. That is one of the big things that we think should be included in a national care board.

Stephanie Callaghan: Dave, what do you think about the role and the purpose of the national care board? What should become of the integration joint boards that we have at present?

Dave Moxham: Other people will be better able to answer that second question in detail. I hope that Lilian Macer will be able to make it here, because others, or our affiliates, have more experience of the day-to-day operation and functioning of the IJBs.

However, I want to echo the view that our vision of a national care service is of something that will be delivered locally, listening to workers' voices on the ground, so that day-to-day decisions can be taken, and problems can be solved, at that level. It would be an abrogation of all the commitments of the Government if workers did not have a direct voice. As Cara Stevenson has said, having a direct voice means having voting rights on the national care board. It simply would not make any sense for us to be engaged in the day-to-day process but to not be able to extrapolate those experiences into the framing of the national delivery questions, which are fundamental to the overall delivery.

Stephanie Callaghan: Thank you.

The Convener: Before we move on to the next question, I have a follow-up question. Cara, you mentioned in your first answer to Stephanie Callaghan that you thought that the pace was too slow. Could you expand on that? Do you think that we should be setting up the national care service more quickly?

Cara Stevenson: No. There is a lot of talk about the national care service, and the bill has been delayed, but nothing is happening on the ground for care at the moment. That is what I was alluding to. We know that care is in crisis now. We cannot wait years for a national care service to fix the crisis; we have to fix it now, as we move along, however that might be done. For us, the way in which the national care service progresses is a point to the side. There is a crisis in care now, which is not being addressed.

Carol Mochan (South Scotland) (Lab): Good morning. I am interested in having a discussion about fair work and sectoral bargaining. The Minister for Social Care, Mental Wellbeing and Sport has indicated that she has met trade unions to discuss those matters. Could you give us some feedback on your view of the discussions so far?

Cara Stevenson: There have been discussions with the minister, who has met members as well as those with lived experience in co-design sessions, which trade unions have attended. The discussions have been helpful, because the minister has been able to hear the views of our members and people who use services, but nothing seems to have come out of them. Nothing has moved forward and nothing has changed, so, right now, it is just discussion. There is nothing that I can add to that; that is where it ends.

Carol Mochan: I will turn to Lilian Macer if she is okay to come in. The point has been made that we are stuck in discussions. Is there anything that we could recommend should happen now?

Lilian Macer (UNISON Scotland): First, I apologise to members for coming in late. There was some dreadful traffic on the roads and then an accident, but that is no excuse.

I absolutely recognise the frustrations. Colleagues will know that we have been working very hard on sectoral bargaining and the fair work agenda in the care sector. We can consider the reports that the Fair Work Convention produced. I was privileged to co-chair the Fair Work Convention when it published, in 2019, its first report, which was on fair work in care and looked at the matter through the lens of the worker and at how people were treated in care. At that time, we said that there was a huge crisis in care. One of the report's significant recommendations related to sectoral bargaining. That recommendation was made in 2019, and I would like to say that some

progress has been made, but Cara Stevenson has outlined the situation perfectly. The lack of progress has made the crisis in care even worse. In 2019, a report told us that things were bad, and now, four years later, we know that there is a deeper crisis.

The bill does not mention sectoral bargaining and does not necessarily recognise fair work—fair work is mentioned once. If we are committed to a fair work agenda for social care workers, we need to have some direct discussions about how that would operate, and that work needs to be done at pace. There has been the 2019 report and then the Feeley report, which endorsed the Fair Work Convention's recommendations, but we still do not have sectoral bargaining for the workforce, which is causing huge issues for us in relation to engaging with that workforce, effective voice, opportunity, fulfilment and respect. The stalling of that work is not helping either people who are in need of care or carers themselves, so there are significant issues for us.

What can we do to make progress? We do not need to wait on the bill; sectoral bargaining can happen now. There does not need to be a national care service bill for us to deliver fair work for the workforce, and sectoral bargaining is a key pillar of fair work.

Carol Mochan: I know that Cara Stevenson wants to come back in, but is there a way of providing for sectoral bargaining across all areas—in the public, private and third sectors—now and in the future through the bill?

09:30

Cara Stevenson: Thank you for bringing me back in. I echo Lilian Macer's point. The Scottish Government's fair work streams are set up to fix social care now, without having to wait for a national care service bill. It is important to echo that point. We were told that work to resolve the crisis in care would happen now and would be totally separate from the national care service bill, although the two things would overlap at some point. We thought that was great and bought into that but, as Lilian has said, we are now sitting here years down the line and nothing has been changed or implemented.

Some progress has been made. When I say "progress" I mean that agreements have now been made within the groups, but that is the extent of it: no action has actually been taken as yet, beyond those agreements having been reached.

Sectoral bargaining can be done, although we must be aware that local government collective agreements are already in place. The sectoral bargaining workstream, which is workstream 4 of the fair work workstreams, is considering that.

Carol Mochan: So, the key message is that action can happen now.

I have another question, which is for Dave Moxham. I am interested in the minister's observation that only 19 per cent of the workforce is unionised. Is there anything that might help to increase union membership in the sector, which we know is dominated by female workers? We want to make the maximum improvement to terms and conditions, because we know that that would change social care for the good in the longer term.

Dave Moxham: You raise an important point. Union membership is relatively low in the care sector, largely because of the intense splintering of that sector over many years. I am sure that members are aware that unionising a lot of small workplaces is far harder than unionising larger ones.

The link between the two issues is that agreeing on and implementing sectoral bargaining will give workers in that sector a very clear idea not only of how they can bargain locally, within their own workplace, but of how their membership and participation lead to the setting of proper standards for fair work across the whole country. The two areas are interlinked.

Our unions work hard and are successful in unionising workers in the current circumstances, but they are running uphill because of the way the sector is organised. To reiterate a previous point, I can remember having arguments with Government at various levels well over a decade ago about the potential to implement the living wage. We were told for a long time that that would not be possible in the care sector, but then realised that, because it was an essentially publicly funded sector, there were many more levers available than the Government had originally imagined.

That also applies to sectoral bargaining. When you are funding a sector, you have the power—and, we would argue, the duty—to demand that individual employers adhere not only to certain standards but to the ways in which unionised workers get together and negotiate at national level.

To reiterate what both witnesses in the room have said, there should now be no difficulty in moving quickly towards sectoral bargaining, which we believe will aid unions in ensuring broader unionisation across the sector. As you rightly said, that could not be more important given the demography of the workforce, in which women, migrant workers and others are disproportionately represented.

Sandesh Gulhane (Glasgow) (Con): I declare an interest as a practising national health service doctor.

I have a question for Dave Moxham. We are unionised—we have some unions. If we want to have the same working conditions and pay across our country—in other words, we do not want a social worker in Glasgow to be paid significantly less than one in the Highlands—do you expect, given how the bill is being run and the way in which the agreement with COSLA is going, that all workers at all levels will be pulled up to the highest hourly rate of pay in the country and pulled up on things such as pensions?

Dave Moxham: I am a trade union member, as well as a negotiator and trade union representative, so my general answer is, of course, yes—it is our job to ensure that. We do not think that it could be argued that anyone, anywhere in the sector, is particularly well paid.

Our mission, and one outcome that we hope for, is that people's pay and terms and conditions will be pulled up. I cannot answer for every worker and every instance of pay across Scotland, but the general drift needs to be sharply upwards. I think that almost all political parties in the Parliament and most commentators recognise that that would be good for the workers, for the sector and for retention.

Emma Harper (South Scotland) (SNP): Good morning. My question is kind of on the back of Sandesh Gulhane's question. Will establishing a national care service increase the visibility of social care and give it equal weighting and equal standing? In previous scrutiny of the bill, I was keen to look at standardised education, career pathways, increasing social care's visibility and establishing a process for recognising social care as a professional career pathway, because we see the work that social care providers do when they go into people's homes, for instance.

I declare an interest, as I am still a registered nurse with the Nursing and Midwifery Council. I am interested in whether you agree that, if the national care service is nationally managed, it will improve the visibility of our care workers.

Lilian Macer: You raise two really important questions. I suppose that I should declare an interest because, before I took up my role in Unison, I was in the NHS in Scotland for 39 years, so I have a deep history of partnership working and industrial relations in the NHS.

When I was part of the fair work in social care review, I was appalled and concerned to see how workers in that community—it includes more than 200,000 women, who are mostly part time and low paid—had been treated over a number of years. That gave me a clearer drive for looking at how we ensure that people are treated with respect in their work environment.

Allowing a market model to continue would mean that workers did not have that respect; they would be undervalued and underpaid. Without the public sector ethos, we cannot deliver the high quality that we strive for in social care and in the NHS. If the bill does not recognise that we need to incorporate and renew a public sector-driven model to deliver social care, the population and communities in Scotland will not thrive. Equally, the workers in that space will not get the same recognition as they do in other public sector arenas.

When we did the “Fair Work in Scotland’s Social Care Sector 2019” report, we met a number of NHS workers and a number of care workers and we did a piece of research through the University of Strathclyde. We quickly realised the difference between NHS-employed workers and social care workers. The lack of a voice, the lack of opportunity, security and respect, and the lack of fulfilment in the daily job of social care workers was absolutely shocking. Unless we have a level playing field, with a public sector-driven model of care and service, we will not drive up quality.

Emma Harper: So you would promote a bill that supports the establishment of equity for social care workers, equivalent to national health service workers. I suppose that that is what I am driving at. If we are able to demonstrate in the bill that care workers will be given parity, and if the national care service was able to deliver a pathway that increased the visibility of social care, which is the career choice of some people—you are absolutely right that it is predominantly women and that it is not always full-time work—that would be something that you would support.

Lilian Macer: Absolutely. The bill currently does not cover workforce issues. If the Scottish Government has changed its mind and wants to include workforce issues in the bill, we need a new bill. We need to scrap the current bill, get round the table and develop and design a fit-for-purpose national care service that is worthy of the name. If we are serious about the workforce and the huge potential within that workforce, we need to invest in the members of that workforce—both while they are at work and in their pension provision. Most of those women do not have access to decent pensions, so they fall into pension poverty. We need a committed investment, as we do with our public services, that offers a public service provision of pension that will ensure that, when people retire, they can live in dignity and with respect.

Emma Harper: Thank you.

Gillian Mackay (Central Scotland) (Green): This question is for the whole panel. If you or any of your members have attended any of the

regional forums, what were the themes that stood out for you from those forums?

Cara Stevenson: That is a well-timed question: we were at a regional forum yesterday. At the lived-experience forums that we have attended, there have been different themes around joint decision making and valuing the workforce. Our members currently think that that is just words and a box-ticking exercise, rather than a contribution to making the bill and the introduction of the national care service better. We believe that the points that are put across during those sessions are listened to, but the information then goes into an abyss.

I am sure that something is happening at the other side but, at the moment, our members are not reported back to on what is being discussed or on how that could make the bill better or contribute to the implementation of a national care service. Our members are attending those events and contributing effectively to them but, as yet, nothing is coming back. Therefore, they feel that the workforce does not have an effective voice. They are getting a voice, but they are unsure whether it is effective.

Lilian Macer: Thank you for the question. It is a good one, because that is what our members, as well as Cara Stevenson’s, are saying. In addition, the users of services, and families and communities, are looking to see how their voices are being listened to within those forums.

In relation to the direction that we are going in with the bill, I have to say that pausing and stopping it is absolutely right. If we are looking at what comes next for us, we need to make sure that the bill is fit for purpose and that it will recognise the workforce issues and the challenges—or, at least, the concerns—that a number of organisations have laid at the door of the Scottish Government around its first pass at the bill. Equally, we need to make sure that, when we listen to those voices, we react to them.

09:45

If the bill goes forward, Unison would like the proposed stage 2 amendments to be published in advance of any stage 1 debate and vote. We need guarantees and assurances that voices have been heard. If the bill goes through as is, our members and service users will realise that their voices have not been heard. The opportunity to see those stage 2 amendments flowing through and being published would give the people who attended those forums a guarantee—or, at least, some assurance—that they were heard and listened to and that action was taken.

Gillian Mackay: I do not know whether Dave Moxham wants to come in.

Dave Moxham: I do, albeit briefly. The STUC has not been directly engaged in the same way as our constituent unions have, but I want to underline the point that Lilian Macer made. We have not yet seen the outputs. Let us be optimistic and hope that the outputs from those forums show that they have genuinely been listening events that can effect change in the proposed legislation. However, we need absolute transparency in relation to the outputs from that process, the amendments that Lilian referenced and how they will lead to changes in the bill.

Gillian Mackay: This morning, we have heard a lot about your priorities and thoughts on various parts of the bill. From what your members have brought up at regional forums, what priorities should underpin the work on the design of a national care service?

Cara Stevenson: As I alluded to earlier, we cannot wait for a national care service, whenever that might be or however it might be delivered. There is a crisis in care, and a care service has to be delivered now.

When it comes to our members' general feeling on the bill, many are worried about putting a hot meal on the table for their families right now, given things such as low pay and bad terms and conditions, without thinking about what might happen five years down the line. Given all the ifs and buts, there is no clarity. We are in a cost of living crisis. People are struggling. As I mentioned the last time I gave evidence, some workers have told us that, sometimes, they go to the shop to buy things for service users with the last of their money—they are having to decide whether to eat or to help out a service user.

At this stage, our wider membership is more concerned about making change for the better now, so that people can afford to continue working in the system. Given the way that things are going, if there is no change and no alleviation of the crisis, we will have no workforce left in social care to see the introduction of a national care service.

Lilian Macer: If Scotland is to achieve radical change, the public provision of services is absolutely needed. Public provision is a necessary element of a national care service, in order to ensure that leakage does not happen. For example, the bill does not give clarity on procurement. It mentions ethical commissioning once. Right now, through the IJBs, the opportunity exists for the leakage offshore of more than 20 per cent of public moneys. That means the loss of opportunity in Scotland—the opportunity to spend where our members spend their money: in their local communities. That growth in Scotland's wellbeing economy is not being realised if money is being offshored, which is exactly what is being

done by the multinationals that deliver care in Scotland.

For me, radical change means public provision of services and public control of those services, so that we do not see that leakage and so that the moneys that we spend—public sector and taxpayer moneys—go back into local communities, where they belong.

Dave Moxham: I will come in briefly on that point, as I want to drill a bit further into what Lilian Macer has said.

Our 2022 report, "Profiting from care: why Scotland can't afford privatised social care", which I am sure that the committee is aware of, made the comparison not just between the direct and the private sector in respect of the leakage that Lilian was talking about, but between the third sector and the private sector, and it found that leakage was not a function of being independent from direct delivery but was a function of the profit-making motive. There is a very clear distinction, and one that we think has not been investigated enough and certainly has not been built into the Government's plans, between the private sector and the third sector.

The leakage figures are really quite startling, and we cannot see any justification for that, certainly given that, along with that leakage, the private sector also has lower pay and conditions. We cannot see any basis for a blueprint for the future that sees anything other than the diminishment and eventual eradication of private sector opportunism.

Sandesh Gulhane: Cara Stevenson, you said that things are going very slowly when it comes to the NCS, but last week Eddie Follan said that COSLA was dealing with a very short timescale. How do those two things match up?

Cara Stevenson: You would have to ask COSLA that, I suppose. As far as we are concerned—we are here representing the workforce—things are going slowly. We agree that the bill should be paused until it provides more clarity. GMB's position is that we welcome a national care service because we feel that social care needs a reform, but the bill in its current form is not good enough and does not give enough guarantees to the members we represent. So, when I say that there is not enough pace, I mean that there is no pace in introducing amendments or in providing any clarification or any guarantees to our members that they will be protected through this process.

Sandesh Gulhane: I again turn to what Eddie Follan said last week. He said that primary legislation is important and that he wants things that he is working on to be in primary legislation. When it comes to guaranteeing workers' rights

and things that you think are important for your members, do they have to be in primary legislation?

Cara Stevenson: Yes. We believe that there should be some protection for the workforce in the primary legislation. When we propose amendments and ideas, we are told that they cannot go into primary legislation because of legalities and that they would have to go into secondary legislation. All we want is guaranteed protection for the workforce that we represent. We would support such protection, wherever it goes legally, as long as it is in there.

As was suggested earlier, members of the social care workforce work really hard. They have a really emotional job. As well as the physical aspects of the job, there is the emotional trauma that they go through daily. The least that we can do for them is give them some protection and a guarantee that we are going to look after them, just as they are looking after the most vulnerable in our communities.

Sandesh Gulhane: Lilian Macer, coming off what Cara Stevenson said, when you said that you wanted to scrap the bill and start again when it comes to workers' rights, is the reason for the renegotiation to put things in primary legislation? If not, what is your reasoning?

Lilian Macer: The reasons why Unison is calling to scrap the bill are multifaceted. We do not believe that the bill in its current form will deliver for the population of Scotland. We do not believe that it recognises and values the workforce.

As I said earlier, there is nothing in the bill about workforce matters. There is one mention of fair work. There is nothing in the bill about ethical procurement; it talks about ethical commissioning and about setting up a process to establish what that looks like. The bill does not give us the assurances and guarantees that we need for our members, and it does not give guarantees and assurances for the population of Scotland. That is why we need to scrap the bill. We need to have the opportunity to sit down with the experts in the room: the workers who work in the service day in and day out.

If members read the Fair Work Convention report into social care through the lens of the workers, and they read their testimonies, they will recognise that every worker in social care wants to be there. They do not want to be there for the money, because they can get more money working in the supermarket down the road; they want to be there because they want to contribute to their communities and to caring for the population.

People decide to work in care as NHS workers, as social care workers and as public sector

workers because the public sector ethos means that we deliver high-quality services, and yes, because there is an element of reward through pensions, terms and conditions and through negotiations. The private sector workforce has very little or none of that, and that was the message that came through from the report. Sectoral bargaining is an absolute must for recognition of that workforce, as the report on that the Fair Work Convention published four years ago said, so, I do not think that we are working at pace.

Sandesh Gulhane: Unfortunately, we do not have time to go into all of the detail on why you do not think that the bill will deliver for the people of Scotland, so, could you write to us with that detail?

Lilian Macer: Let me just advise committee members that Unison Scotland has been doing some work with the Association for Public Service Excellence and we are just about to launch a report that goes into a huge amount of detail about all of the issues that we are describing today.

Sandesh Gulhane: But could I get a commitment from you to write to us with that detail?

Lilian Macer: We launch our report on 13 November. We will circulate the report to committee members and we will share with you in a letter the thoughts about the APSE report. The APSE report looks at social care, it looks at the bill, it cross-references local authorities across the United Kingdom and it gives a huge amount of detail, but I will write to you about it.

Sandesh Gulhane: Thank you. My last question is to Dave Moxham. You talked about transparency when it comes to the co-design process. My worry—which Cara Stevenson mentioned earlier—is about it being a box-ticking exercise and there not being an effective voice, not just for workers, but for anyone who turns up to speak at these sessions. I have read the information that the Government put out—on 27 September, I think. It is all very sanitised and neatly packaged. Do you think that it is important to have the raw data out there on what everyone has said, so that we can all see it?

Dave Moxham: Yes. I think that the general principle of that is correct. I am not going to say that there would not necessarily be bits of evidence in those sessions that, for reasons relating to people's personal experience or other factors, might have to be redacted. However, we would like to see as much of the data as possible.

You spoke about Eddie Follan's statement about the legislation, and how he said that he wanted to get on with some of this more quickly than that—sorry if I am paraphrasing you poorly.

There is a very real sense that there are changes that can be made in the areas of workforce terms and conditions and with a move towards collective bargaining, both of which we are particularly concerned about. We believe that those things will be underlined during the process, but we believe that the changes can take place now and that that should be part of the ultimate legislation. However, some learning can take place now that would make the bill stronger, because it will underline and inoculate the good practice that we develop rather than inventing stuff from scratch.

There should be as much transparency as possible, and as much action on our recommendations and the recommendations that come from other sources as part of the consultation process.

10:00

Paul Sweeney (Glasgow) (Lab): Thank you for your comments so far. I have a question about the process of the co-design sessions. You mentioned that a key ask was trade union representation with voting rights on the national board. Have you been part of the process of the drafting of the charter of rights? If so, what are you asking for in that regard? What key things do you want to see in the charter of rights? Cara Stevenson, will you answer first?

Cara Stevenson: I allude to the evidence sessions, which have maybe already answered some questions.

At the sessions that we have attended on the co-design, we have been told that the notes that are taken are all anonymised, so that people feel that they are able to speak, so there should not be any issues with transparency in relation to the sharing of information.

With regard to the charter of rights, we have been involved in the drafting. We were sent a copy and given notes. There is quite a lot in it that alludes to service users, so we decided to work with another body that represents service users to give comments on that. Without going into too much detail, the general consensus on the charter of rights was that it is a bit too woolly. There are not enough guarantees and it is very open to interpretation. We think that it has to be looked at and made into a much stronger document rather than it being quite laid back, which is how our members have seen it.

Paul Sweeney: Do you expect to see the charter on the face of the bill? Should it be at the heart of the legislation rather than something that is decided by ministers later?

Cara Stevenson: Yes. There has to be something there that people can work towards.

One of our key asks is about regulation. We can have as many charters and codes of practice as we like, and all the rest of it—the Care Inspectorate and the Scottish Social Services Council—but we are pushing for proper regulation to determine whether those things are being utilised. People need to know that they exist and to be able to access them. We can talk about whether things should be in the bill or alongside it, but there needs to be regulation to ensure that the charter is being implemented and is working, and people need to be given the right to be part of the charter. If we do not have that, there is no point in having it, is there?

Paul Sweeney: Thanks for that. Lilian Macer, do you have thoughts on the charter?

Lilian Macer: Unison does not have a policy yet on the trade unions' participation in the care boards or voting membership. We will take that to our committee structures, have that discussion and debate and feed that into the process, but we do not have a policy on it yet.

On the setting up of the charter of rights and the other rights and responsibilities that the Scottish Government wants to enact, there absolutely needs to be investment. If we do not have the required investment to deliver on the charter of rights and those responsibilities, they will not materialise and become a reality. If we look at the referral to treatment time guarantee that the Scottish Government put into legislation some years ago, we can probably count on one hand the number of health boards that have maintained those patients' rights in communities. As I said, if we are looking for radical change in social care, we need to invest. Investing in public services will grow social care and opportunities for the workforce. Investing in multinationals takes that money offshore and does no one in Scotland any favours.

We are willing to look at a charter of rights and how that should sit within the legislative framework, but we need investment and guarantees that it will be real.

Paul Sweeney: Mr Moxham, do you have any points to add?

Dave Moxham: No.

Paul Sweeney: Thank you. Convener, I declare an interest as a member of the GMB trade union.

The Convener: Emma Harper has a question.

Emma Harper: I have a quick supplementary question.

Cara Stevenson said that something needs to be done now. My understanding is that the Scottish Government published a winter preparedness plan on 24 October, which is a joint

publication by the Cabinet Secretary for NHS Recovery, Health and Social Care and Councillor Paul Kelly, who is COSLA's health spokesperson. The plan has eight priorities for care and how we support people over the winter.

The development of the bill is for the future, and the winter preparedness plan is action that is being taken right now. Do the eight priorities cover ensuring care at home as much as possible, consistent messaging to the public and supporting staff? There is a focus on recruitment, retention and wellbeing of staff as part of those priorities. I am interested in the priorities that will be delivered over this winter. If we reflect on what works, those priorities could go into the future regulations for the national care service bill. Should we also consider that? The winter preparedness plan is being delivered right now, and its priorities could be reflected on for the future.

Cara Stevenson: That goes back to the regulation of the processes that are put in place, because social care has seen many winter preparedness statements through the years. As a social care worker, I can categorically say that the plans are on paper and they stay on paper. That support is not accessible on the ground.

Emma Harper: So, is the winter preparedness plan not deliverable?

Cara Stevenson: I hope that it is deliverable and that this time is different. As trade unions, we support our members by advising them that the plan is in place and speaking to employers about it. However, having worked in social care, I know that it has not always been easy to access that support. Throughout the winter, if a home care worker phones up and says that there is bad weather, so there is a health and safety risk, and that they cannot get to a certain person to deliver care, they are told, "You are a carer and they are a vulnerable person. I do not care how you get there—you must get there." That is what happens on the ground.

It is great to say that wellbeing is being taken into consideration, but, in my experience, that has never happened. If those things work, they should be put forward as suggestions to be included in the bill, but we would have to wait and see whether staff actually use the winter preparedness plan.

Emma Harper: Evaluation of the plan is essential in order to reflect on what works and what we should take forward in the bill.

Cara Stevenson: Yes. I would welcome that. I hope that that evaluation is successful, because it is required to support the workforce and the people they support so that those people receive the best possible care, no matter what. However, at this stage, I would not be able to say that,

because we do not know whether it has worked yet.

The Convener: We need to move on. We are running short on time, so I ask members to be concise with their questions and panel members to be concise with their answers. I move to Evelyn Tweed.

Evelyn Tweed (Stirling) (SNP): Good morning. Cara Stevenson said earlier that workers engage with the regional forums, but that there is still uncertainty. Does that affect the morale of the workforce?

Cara Stevenson: Yes—definitely. They are in crisis now, and there are no guarantees for what will happen in the future. At those regional events, when care workers put forward their concerns and issues, we basically say, "We will write that on post-it notes and take it back to consider it for the national care service bill." The workers are saying, "We are stuck in this crisis, and there is no end to it. Nobody is guaranteeing us an end to it or that things will get any better." It definitely affects morale, and causes people to drop off from engaging in the process.

Evelyn Tweed: You also said that there were a lot of holes in how the national care service would move forward in delivering services and that many areas still need to be fleshed out. Can you expand on that?

Cara Stevenson: That is an open question. As we are running out of time, I would be happy to write to the committee to give our members' views on that, because I will definitely run over time if I start speaking about that and I am aware that the convener has asked us to keep our answers short.

Evelyn Tweed: If anyone else wants to write to us on that issue, they may do so.

The Convener: David Torrance has some questions.

David Torrance (Kirkcaldy) (SNP): To what extent will the retention of statutory delivery functions, staff and assets by local government and NHS boards limit the potential scope for co-design to influence any future redesign of service delivery? That question is for Lilian Macer first.

Lilian Macer: We probably need to think about how we operate now. I will briefly return to the question about winter preparedness, because every day in the service is now a winter day—public services are now under such pressure that there is no summer holiday from that pressure. We need to shift the balance of care and to look at making proper investment in local government. We cannot starve one service to feed another. The NHS, social care and local authorities are absolutely linked and must work together. We must ensure that there is proper investment.

There would be barriers to the opportunity for co-design if the bill goes through without there being any amendments on that at stage 2. That would be a significant risk for everyone. Commentators from across the country have said that the bill is not fit for purpose in its current form and that we need a pause. It is fantastic that we are taking a pause, but voices must be heard. The workforce has been engaged in some forums but workers have also engaged directly with their trade unions and we are hearing the message that they want to deliver high-quality services but must be able to deliver those in a fair work context.

David Torrance: In light of the new accord between the Scottish Government and local authorities, to what extent are you reassured that staff roles, terms and conditions will be protected? I know that Dave Moxham mentioned that earlier.

Dave Moxham: I did allude to that earlier. There are significant, long-term concerns about the relationship between central and local government in Scotland. Our view has consistently been that it is absolutely essential to have strong, democratically accountable, publicly funded local authorities. I do not want to go too deeply into an issue that I have touched on already and which is parallel to this one. What I will say is that we had some hopes that the Verity house agreement would be a reset, but it is not entirely clear that it has gone well thus far.

My other point might touch on your previous question about co-design. We do not believe that local authorities—or any public sector delivery—is perfect, but the vision is for local authorities to be involved, along with other stakeholders, in co-design in order to deliver the right local services. That process should be matched in national delivery, where workers, service users, advocacy organisations, providers and—fundamentally—Government and local authorities should be at the table. I am not sure whether your question is implying that local authority delivery would, in itself, be a barrier to co-design, but we do not see that as necessarily being the case.

10:15

Emma Harper: Most of what I was gonnae ask about has already been covered. We have kind of covered this, too, but I want to ask about the current status of social care as far as esteem and career pathways go, and in relation to making sure that the public knows the contribution that our care workers make across Scotland. Over the summer, I heard from workers in Stewartry Care about the level of skill and experience involved in what they provide to people in their homes and in care homes. I am interested in what your current members think or perceive about their roles in social care. Does more work need to be done to

demonstrate to everybody the value of social care?

I see that Cara's microphone is on—and I see Lillian Macer nodding, too.

Cara Stevenson: More work definitely has to be done in relation to the value of the social care workforce. If you sit down with a social care worker and ask them what they do in their job on a daily basis, they will answer, "Well, I just care for people." However, when you break it all down and write out the amount of things that they do in a day, even they are shocked, because they are so used to doing them and to their caring nature taking over and doing what has to be done. We could be talking about a number of things, including personal care, toileting and medical procedures. A lot of the social care workforce do percutaneous endoscopic gastrostomy—PEG—feeding and deal with catheters and stomas, all of which are intricate medical procedures. However, they do not recognise that—they just do these things. All that is in their mind is that the person needs care, and that they are there to deliver it. We have a power of work to do to show the value of that workforce, and to change the perception of the workforce itself.

This is about the wider public, too, because the fact is that everyone will be touched by social care at some point in their life. There will be those who work in or use the service, but this is something that will come to us all at some point with, say, a family member, a friend or even ourselves in later years. Investing in valuing social care now is definitely the way in which we need to move if we are to have better social care in Scotland in the future.

Emma Harper: You have given some good examples, such as PEG tube feeding and caring for people who have stomas, and I was also thinking of the support provided to people for, say, reablement and recovery from stroke. That sort of support involves mobility, moving and handling, all of which requires lots of skill.

Are we confident that at the moment we have a multidisciplinary approach to assessing people's needs so that care can be delivered effectively? Could we reflect in the bill that need for the right assessment to deliver the right care to the right person?

Cara Stevenson: Assessment is important. This is sometimes missed in the social care sector; assessments are done when someone begins to receive care—it might be that the need for care is identified when they are released from hospital or is identified by a professional worker or family member—but the important point is that care does not stay the same and that the people who are responsible for assessing it are the

workforce on the ground who deal with those service users every day. In other words, they are not only delivering care but constantly assessing the situation and passing information back to colleagues in the NHS and in managerial positions in the social care sector for further assessments. They represent the point at which the need for further assessment is identified when the person's needs change. We need to recognise that assessment not only takes place when a care package is set up; it is actually a continuing process of monitoring.

Lilian Macer: Cara Stevenson is absolutely right. What we do not see in that care assessment is the huge unmet need within our communities. Huge numbers of people are still waiting on assessments, and every local authority in Scotland has lists of people who have applied for care. However, there is no capacity in the service to deliver it.

In making assessments, we need to look at how we use the resources that we have to ensure that as many people as possible can be part of the process. Right now, we have not mastered that, because of the waiting lists for care. I should point out that we do not say that there are waiting lists for care. We have NHS waiting lists, but we do not record all the people in our communities who are waiting to be assessed for social care provision.

There is a huge amount of work for us to do, but we can do it if we think about the radical provision that we need and invest in our public services to deliver it.

Emma Harper: Just a final—

The Convener: I need to move on to Tess White.

Emma Harper: Okay. Thanks very much.

The Convener: I call Tess White, who is joining us remotely.

Tess White (North East Scotland) (Con): Thank you, convener. I have a question for Dave Moxham, one for Cara Stevenson and one for Lilian Macer, if I may.

Dave, you made some criticism of the sector's current organisation. To what extent are your members confident that the National Care Service (Scotland) Bill will provide a suitable framework for a robust and sustainable social care and support service?

Dave Moxham: In a sense, the jury is out, because we just do not know yet. We have not—I hope—reached the end of the road yet in terms of what the new service will look like. However—and my colleagues might touch on this, too—I cannot pretend that we are getting a great sense of

confidence from our member organisations that what is currently being tabled is sufficient.

There is a degree of optimism, though. Most people have identified most of the issues that need to be addressed. To return to the theme of a lot of this evidence, I would say that it is a question of the action that can be taken now and the improvements that can be made to the bill—or, as Lilian Macer has said, whether a new bill might be needed to reflect those issues.

Confidence is not high, but hope and ambition are. I return to the point that we fundamentally believe that the direction of travel needs to be towards direct public provision. That is a message that we are getting consistently from our members, and it is a big miss that we think needs to be rectified in the proposals.

Tess White: Cara, one person contacted the committee to say that they feared that their unwell mother's 24/7 care responsibilities for their father would kill her, but she has been told there are no residential care beds due to lack of funding. Given that the national care service is now running behind schedule to allow for further consultation, what would you like the Scottish Government to do in the interim to improve social care and increase capacity?

Cara Stevenson: This brings us back to the topic that we do not like talking about—funding. If there is no funding for or investment in social care now, instances such as that described by the person who wrote to the committee will, unfortunately, keep happening—and will happen more often. We need funding and investment, and we need support for the social care sector to ensure that people can access the care that they need and that there are well-trained staff to provide it.

Tess White: Lilian, what are your key concerns about the current and immediate issues in social care and support provision, such as staffing and capacity?

Lilian Macer: Although recruitment and retention strategies and workforce plans identify a joint approach to workforce planning in Scotland through health and social care, they still miss out a huge swathe of the workforce. We have some information on the third sector, but we do not have data on the private sector workforce's capacity to deliver.

As far as the delivery of those services is concerned, workforce plans in Scotland have focused hugely on the NHS. They look at career pathways and training opportunities, but there is very little recognition of social care as a professional job. A lot of people—not social care workers, but others—see social care as a stepping stone to the NHS, and we need to turn that on its

head. As social care is a professional job, professional opportunities need to exist in it, and having an integrated workforce plan that included career pathways and training and development would be a start.

The Convener: Thank you very much. I thank the panellists for their evidence and their attendance, and there will now be a short break to allow for a change of panels.

10:26

Meeting suspended.

10:40

On resuming—

The Convener: We continue our scrutiny of the National Care Service (Scotland) Bill. The second panel of witnesses that we will hear from today is comprised of representatives of care providers and the voluntary and third sectors. I welcome to the meeting Rachel Cackett, who is the chief executive officer of the Coalition of Care and Support Providers in Scotland; Dr Jim Elder-Woodward OBE, who is the convener of the Inclusion Scotland board and a member of its people-led policy panel; Rob Gowans, who is the policy and public affairs manager of Health and Social Care Alliance Scotland; and Dr Donald Macaskill, who is the chief executive of Scottish Care. Jim Elder-Woodward is supported by Lisa Ehlers from Inclusion Scotland.

We move straight to questions from Tess White.

Tess White: Dr Jim Elder-Woodward, an announcement that legal accountability would be shared between the Scottish Government, the NHS and local authorities was made over the summer, prior to the co-design process with stakeholders. You described that as a backroom agreement. Will you expand on that comment?

Dr Jim Elder-Woodward (Inclusion Scotland): We were very disappointed in the agreement, because we thought that people with lived experience were supposed to be the central pillar on which the national care service would be delivered. We felt that the agreement did not take any cognisance of the co-design process and that it was made without reference to any stakeholder other than the Scottish Government and COSLA.

We feel that we have always had issues with COSLA, in that it has never truly talked to us about the issues in social care, despite our three-year attempt to talk to it about the portability of care and care charging. We had to walk away from those discussions after the three-year period. We are very disappointed that COSLA has what seems to

be a veto over the development of the national care service.

I hope that you can understand what I am saying.

Tess White: I can. Thank you, Dr Elder-Woodward.

The Convener: I would like to hear the panel members' views on the proposals for legal accountability for social care and it being shared between the Scottish ministers and local authorities, which is quite a significant change to what was first proposed in the bill. I come first to Rachel Cackett.

Rachel Cackett (Coalition of Care and Support Providers in Scotland): Thank you for the opportunity to come back to talk about the bill as the committee continues to consider it.

I agree with a lot of what Dr Elder-Woodward has said. We were deeply disappointed that a bill that purports to be about co-production and engagement ended up with a deal done quietly behind closed doors, which we certainly were not involved in any more than were our colleagues in Inclusion Scotland.

10:45

Those of you who were on the committee back in December might remember that the CCPS made a pile of suggestions for how the bill could be improved, given where we were at. One of them was that, if co-production is to be at the heart of the bill, it has to walk the walk, and what has happened has felt like the opposite of that.

I am left with lots of questions. Although we are told that there is to be three-way shared accountability between the NHS, the Scottish Government and COSLA, I do not know what that means. I am not sure that, if we asked the Scottish Government, COSLA or the NHS, they could give us a clear answer yet either, so it is very hard to understand how that statement will relate to changes to the bill and to the proposed structures.

There has been a massive focus on accountability, but that sort of misses the point. It is not that people at a political level should not be accountable for care and support; we know from the people-led policy panel that that was a very important part of the emergence of the NCS proposals. However, we have been concerned for a long time that we have lost the vision of what we want social care and support to be. If we can agree that the purpose of social care is to give people who require care and support the rights that they are due in order that they can thrive in everyday life—underpinned by choice, control and participation—I feel as though we are starting the conversation from the wrong end. We have got

caught up in political ownership. We can talk about the rights and wrongs of the Social Care (Self-directed Support) (Scotland) Act 2013 and how it has been implemented, but if the point of social care is to provide choice and control at the front line, that is what we should be looking at. That should be underpinned by the principles of good governance, which include transparency and participation, but none of those have been clear in the deal that was done over the summer.

I am left genuinely not understanding what the deal means for the structure of the NCS. An awful lot of energy was expended over the summer in those discussions, which, remarkably, seem to have got us back to upholding the status quo. That is not what this was meant to be about, so I have serious concerns and many questions. I wish that we could get back to articulating a vision for social care and then look at how form follows function. I feel that we have lost that in the midst of those discussions.

Rob Gowans (Health and Social Care Alliance Scotland): We were also taken aback and concerned by the announcement. It raises questions about the co-design process if some parts are to be co-designed but some parts are to be subject to decision making between the Scottish Government and COSLA. Where does that extend? For instance, in relation to the announcement on shared accountability, we were told that the details would be co-designed, but that was followed by an announcement that there would be a national care board, and, again, such decisions are to be taken between the Scottish Government, COSLA and the NHS. That leads to some questions about which parts of the process will genuinely be co-designed and which parts will, as Jim Elder-Woodward said, be subject to a veto by the Scottish Government and COSLA. That concerns our members.

We encouraged people to take part in the co-design sessions and regional forums over the summer, but a number of our members were sceptical or concerned, partly because, although there has been much engagement on what the issues are with social care, people feel that they have said what the issues are many times before and that, if the process becomes a well-resourced consultation, that risks letting people down. Many people have told us that they have felt let down and unheard by the current accountability arrangements, so we have some concerns in that regard.

Dr Donald Macaskill (Scottish Care): Not surprisingly, I agree with everything that has been said so far. It felt as though we were taking a journey back in time to smoke-filled rooms—it may not have been only gentlemen making decisions about citizens, but it felt like that. The real sense of

disappointment was twofold. First, the proposal risks us replacing the status quo with a refreshed new normal. That is not what people who use support, people who provide and manage care services, and people who work in care services want. We want the vision that Feeley began to describe in his report. We want that sense of recognising that we cannot go on in the way that we have been doing. Paradoxically and ironically, given that ‘verity’ means truth, the Verity house agreement was lacking in truthfulness and honesty.

Secondly, with regard to accountability, we have to recognise that, in Scotland, 70 per cent of public services for social care are delivered by the third and independent sector. Where does accountability lie? Yes, there is a need for political responsibility and ownership, but the primary accountability has to be with the citizen, those who are employed to support that individual and with providers of care and support across all sectors.

This felt like something predictable but lacking vision. It would take us down an alleyway back to the past. I am very disappointed. Then again, I am not sure whether the Verity house agreement still stands, given recent events.

The Convener: I think that we are straying off-piste.

Dr Macaskill: Therein lies the problem. Those of us in the sectors do not know what is happening because decisions are being made elsewhere.

The Convener: Jim Elder-Woodward, did you want to add anything to your original answer?

Dr Elder-Woodward: I want to say one thing. Those of us who are in receipt of social care have never been involved in working out how that social care was planned and delivered to us. We have been the objects of social care, rather than the subjects of social care. We want you to understand that we are the subjects of social care, not the objects.

Right at the beginning of the design process, we were excited that the Scottish Government at last wanted to talk to us. COSLA did not want to talk to us through the terrible days of the neo-liberal management of social care, which not only put the pound before the need, but also tried to override the ethics of social care and social work. We want those issues to be put back on the table. Social care is not about bed blocking but is about giving people the life that they want to live.

We were excited and very keen to be part of the co-design, but this announcement has made us feel that we have been used. We have been used—we are just the froth on top. The real decision making—as ever—has been taken by the department, and we are not truly part of a system

that takes our opinions and knowledge into account in those decisions. We have been used by the co-production process and we are really disappointed.

Gillian Mackay: Given what was just said about the feelings about the Verity house agreement, what do the witnesses think about how the co-design process has gone so far? I refer to the regional events over the summer.

Rob Gowans: It is mixed news. It would not be fair to say that the regional events have been terrible by any means. I have been along to some of them, as have our members, who felt that they were able to share their views and comment on parts of the process. We have encouraged and supported people to get involved. We have also helped the Scottish Government to host some of the online events, which have been useful.

The crucial bit is still to come. The reports captured some of the issues that exist. There is little that we would disagree with. We have heard a lot of it before. The next bit is how people will be involved in making decisions about what the new system will look like—the charter, some of the arrangements and the complaints mechanisms, for example. That will be the proof of the pudding.

Rachel Cackett: It is hard to follow on from some of the comments about the disappointment in the co-production process.

We, too, have had staff and members attending the events. There was a major event yesterday and the feedback I had from it was how interesting it was that not-for-profit third sector providers were hardly mentioned the entire day. That says something about what co-production might mean in practice from our perspective. It comes back to the difference between the gargantuan announcements that were made over the summer and the potential for some of the discussions in the co-production process to become marginal in the face of what those decisions might mean for the bill.

Although we can look beyond the bill—if it passes stage 1 and goes ahead—I do not know what it will look like, given the announcements. It cannot look like it currently looks, so what will it look like and where is the process for all of us to engage in shaping that? When the announcements were made in the summer, we came out and said that we were disappointed. It is what it is. It is done and a political agreement has been made. However, we now need to be involved in helping to shape the system if we are going to be true to the Feeley report and to a sense that good governance is participatory and gives everybody a voice.

We asked for a national care board. We said that it was really important because all of the

people with a stake should be involved in a participatory governance process for something as important as the area that we are dealing with. That still has not happened. We are still not involved in those discussions. I still do not know what the bill will look like. Although it is important that there is a robust and engaged process, none of the national care service will be established until the bill passes and the bill is a big question, because I do not see us really having the discussions about that as we should.

Gillian Mackay: What are the witnesses' views of current planned timescales for the passage of the bill? What do they hope could be achieved from the additional time that we now have compared with the original timetable?

Rachel Cackett: I will continue from what I was just saying. At the moment, I do not know what the bill will look like. I cannot but imagine that, given what has been agreed, fairly substantial amendments will need to be made to the bill at stage 2. It is never a great position to be in when you are looking at really substantial amendments being made to a bill. For me, there is a question about what principles are being agreed at stage 1 and also what exactly those amendments will look like.

11:00

There is clearly a lot of work to do to get those amendments right and to engage with all of us—not just those of us around the table today, but everybody who has a stake in what the bill should look like and what a national care service should be. It is now a couple of months since that announcement was made, so I am wondering what the pace of the decision making around those amendments will look like. It is really important to get that right.

I hear what the minister has said about evolution not revolution. Frankly, the national care service five years down the line is not going to solve the immediate crisis that we are in. At the moment, we are just firefighting, and we have to firefight or there will not be a sector to be part of a national care service. Nevertheless, there has to be the hope of understanding what that reform will look like. I hope that, in this gap, there will be clearer articulation of a vision and clearer articulation of how all of those with a stake will participate in reshaping the bill as it goes through. I also hope that there will be a clearer understanding of that before the end of stage 1.

Dr Macaskill: To continue that point, there has to be empowerment and engagement. That is a critical part of redesign and it has not happened. For different reasons, which we might go on to, we have had a summer of real care disenchantment.

There is no energy out there to be engaged in the development of a national care service. Our members are firefighting and struggling to continue to exist, to recruit workers and to deliver care and support, and it feels rather like saying to a passenger in a lifeboat of the Titanic, "What's your next holiday going to be?" Other than for those of us who are, let us be honest, more politically engaged and a little bit of care anoraks, the national care service is an incidental matter to the front-line worker in home care or the front-line nurse in a care home who is struggling to deliver care and support.

At the moment, it is really difficult for us to engage people in a process that is so lacking in rigidity and certainty. As has been said already, there are clear elements in the engagement that we would absolutely agree with, but there is a fundamental issue about whether we still have the right people around that table of engagement. In the independent care sector, all our members—be they charitable, not for profit, employee owned or private—do not feel engaged in the national care service process at the moment.

That is partly because of the Verity house agreement but also, significantly, because of things such as the statement made by the minister in her letter to the committee of 20 September, which mentions the national board consisting of all players but does not mention providers. Can you imagine that happening in any other sector where radical systemic reform is being planned? For instance, can you imagine that you do not talk to general practitioners about reform in general practice, or that you do not engage with those who are critical to the whole process in any other business sector that is facing dramatic change in policy articulation and direction? In the care sector, those people are providers, workers and, as Jim Elder-Woodward has said, those who engage the support. Two of those groups are included but, by and large, providers have been an afterthought.

Gillian Mackay: Did Rob Gowans or Jim Elder-Woodward want to come in?

Rob Gowans: I agree with Rachel Cackett that there is quite a degree of uncertainty about what the bill will look like when it comes back. We were certainly engaging with it when it was expected that stage 1 would be in March, and we were looking at potential amendments around that. That said, there were a number of members who found it difficult to engage with the bill because of the lack of detail.

It would be good if the Scottish Government was to set out what changes it is looking to make to the bill, particularly to reflect the announcements around governance and some of the results of the co-design process, which is still on-going. That

would allow us to better engage with the bill. At the moment, it appears that it may change from the form that it is in but we do not quite know how yet.

Gillian Mackay: Does Jim Elder-Woodward want to come in?

Dr Elder-Woodward: The bottom line is that I do not know because the timetable for the bill has been extended simply because of the noise made by those who are discontented with the bill.

When I read the original bill, I thought that it was very weak and flimsy. I did not think that it had any really revolutionary structure. For example, the national care service is to be based on human rights and is to take a human rights approach, but no one knows what that means. I feel that the bill ought to say something about how a person becomes empowered to access social care. At the moment, accessing social care and the eligibility criteria for doing so really prove to be barriers to people who want help.

I took part in the Feeley review as part of the advisory division. Feeley made a wee mistake in saying that eligibility should be reformed and removed. The Government has latched on to the word "reformed" and ditched the word "removed", whereas we in the advisory committee were absolutely adamant that the eligibility criteria should be removed and that the person wanting help should be empowered by what is called "the right to need-satisfaction". That right is nowhere near the bill.

We want the right to a procedure that will empower people by giving them the right information and advice, the ability to write their own needs assessment and the right to have their unmet needs recorded. None of that is in the bill and none of that is being talked about by the Government. It says that it is going to put that in the charter, but what legal status does that charter have? There is a top-down approach to the charter.

We need human rights, the right to social care and the right to be empowered and to argue our own corner. At the moment, people accessing social care are totally disempowered by the eligibility criteria and by a resource allocation system in which we have no voice. We have no voice in the resource allocation system to allow us to say that our needs are important.

We need a voice, and we need agency, in the system. At the moment, the bill says nothing about the voice or the agency of the individual who is seeking help.

I hope that you understand what I am saying.

Lisa Ehlers (Inclusion Scotland): Do you need me to clarify anything?

Gillian Mackay: No, I got all of that—thank you very much.

The Convener: I call Sandesh Gulhane.

Sandesh Gulhane: I declare my interest as a practising NHS GP.

In the previous panel, Cara Stevenson of GMB Scotland raised concerns that the co-design process is merely “a box-ticking exercise”, and that

“the workforce does not have an effective voice.”

Dave Moxham was concerned about transparency.

Do you agree that that is the case for the independent sector? Perhaps Rachel Cackett can start.

Rachel Cackett: I cannot speak for the Scottish Government about where it is with that. I do not believe that what you describe is its intent; I believe that it has good intent in what it is attempting to do by looking at how to co-design a national care service.

In effect, however—to come back to my earlier point, which has been far more eloquently expressed by colleagues—the lived feeling is that those in the process are not fully engaged on the matters in the bill, for example, which is what we are in Parliament specifically to talk about.

It is quite hard to see progress with regard to how what is coming out of those sessions is informing the legislative process that we are here to scrutinise today. That is not—as colleagues have said—to say that those discussions are not important; they clearly are, because the national care service goes beyond a piece of legislation. However, the piece of legislation is what we have, and there is not, in my view, a great sense that there is a clear connection between what is being heard and what is being delivered through the bill.

As I said, colleagues at the event yesterday made it particularly clear to me that they felt that our sector was not really a fundamental part of the process. Donald Macaskill mentioned the letter from the minister, and I listened to her evidence to the committee. Providers are absolutely key here, and it is hard to see, when we have a national care board that seems not to involve us, how co-production will be embedded in not just the discussions around, but the delivery of, a national care service.

To go back to Donald Macaskill’s point about accountability in the sector, social care is—as I said—based on choice and control, which requires a diversity of providers. Those providers in my membership—all 91 of them—are charitable organisations with their own boards, and those boards are therefore accountable for what is being

delivered. I do not see that being taken into account at all in the sense of the co-production of a national care service. It feels as if there is a really old-fashioned view of what governance is, and we could do better.

At present, COSLA and the Scottish Government will argue about who has the money and who does not. In the end, accountability is pushed down silently to providers, who are being asked to provide care with too little cash. The accountability is held by those individual providers. We need to have a much more inventive and creative way of thinking about governance, and we have to do that in a properly co-produced way.

Sandesh Gulhane: Dr Elder-Woodward, with regard to the panel, you said that you felt as if you were being “used” and that people had no voice. Is that a criticism of co-design or of the whole process?

Dr Elder-Woodward: The whole process, really.

My criticism of the co-design process is that the Government is doing it in silos. It is talking to this group of individuals and that group of individuals, but it is not talking across them. We need cross-fertilisation of ideas and criticism so that we can talk together to form the new service.

I have sympathy with the workers, because the workers are really important people in the lives of disabled people. Without my personal assistants, I would not be here today talking to you. I recognise the importance of not only giving people the correct remuneration and the correct environment, but giving them a voice as well. My PAs tell me what they want, as well as me telling them what I want. I do not see that cross-fertilisation of ideas and opinions within the co-design process.

11:15

We on the people-led policy panel and the Scottish Government group have been asking for a meeting with COSLA, but that has been put off and put off, in case we rip into them. I understand that, because there is a lot of anger and a lot of hurt among people caused by the neo-liberal management of social care, in which the pound is more valued than the care and care ethics. There is a lot of anger and a lot of distrust of COSLA among our cohort. I think that, until we establish cross-fertilisation of ideas and opinions, the co-design work will not be truly met.

I hope that you can understand what I am saying.

Sandesh Gulhane: I can, and I hope that you get the meeting with COSLA that you would like.

I turn briefly to Donald Macaskill. All the witnesses on the panel have talked about being left out with regard to the sort of secret agreement between the Scottish Government and COSLA. Eddie Follan of COSLA said that there is a very short timetable. Cara Stevenson on the previous panel said that things are moving very slowly, which is perhaps because of the level of engagement. Am I right in thinking that you do not feel engaged? Do you feel that the timetable is arbitrary and that it has been moved once, so it can be moved again to allow you to have engagement?

Dr Macaskill: It is not just we who do not feel engaged or involved. Dr Elder-Woodward is absolutely right that there is real potential for cross-fertilisation and exchange of ideas. If you get the right people round the table—in other words, COSLA, local authorities, independent and third sector providers, people who use services and supports, the trade unions and the front-line workers—there is real potential.

Jim Elder-Woodward mentioned the idea of a human right to social care, which a number of us have been talking about for years. At the moment, the Scottish Government is considering responses to its consultation on the potential development of a human rights bill. We have a real opportunity to transform the delivery of social care in this country. The engagement in silos is just reflective of the poor management of social care provision, where we have a false relationship created between the commissioner and the contractor and the person who uses support and the worker, or indeed the provider.

We need to quite literally get round the table to redesign the redesign process so that everybody is there. We should not be frightened of where that journey might take us. If we fundamentally agree—I think that most of us do—that there is a right to social care support that is about not maintenance but allowing an individual to thrive and flourish and to grow into their fuller humanity, we need to create a system that enables that, rather than continue to embed a status quo, however dressed up and modernised, which just entrenches the siloed mentality and which does ill service to people who use support and to those who work in and provide those services.

We do not feel included and engaged. Engagement is about empowerment, and that is where we need to get to. At the moment, most of us are concerned with keeping the roof over the head of the social care building. If we push this process on for another six months, that will be no great shakes because, at the moment, there are fundamental issues of crisis management in social care in Scotland, and there is less and less appetite to engage in a process that, rather than

addressing the immediacy of today, feels as though it is about tomorrow.

Paul Sweeney: I want to ask Rachel Cackett about her point about amendments to the bill and the likelihood of significant change at stage 2. During the previous evidence session, Unison's regional secretary raised the need to publish the stage 2 amendments ahead of the end of stage 1 in order to have clarity and to de-risk the process. Do you agree with that?

Rachel Cackett: Without some further clarity at this stage—whether that involves the provision of the full amendments or, at least, of some indication of what the intention of those amendments would be—it is hard to understand what the bill might be after any stage 1 vote approves the principles. What that would do to the timetable is for discussion between the Parliament and the Scottish Government, but given the agreements that have been made, we cannot keep going down the line of simply saying that every last detail will be in secondary legislation. With, for example, the formation of a national care board, we need to know who will be on it, what it will do, how it will link to other national bodies and what its core functions are. We need to understand the relationship between the national care board and local care boards—indeed, will there be local care boards, or are we just going to reform IJBs? I, too, am no longer sure. Will the care board provisions come out of or stay in the bill? What will the bill do to the Public Bodies (Joint Working) (Scotland) Act 2014, which was passed all of nine years ago?

It feels as though we need that clarity in order to understand the principles of exactly what is being voted on. Obviously, that is not for me to do, but in order for us as a sector to even understand how to put our resource—which is limited, given what is going on in the sector—into trying to make things right, we need greater clarity. I speak regularly to COSLA and the Scottish Government, and I do not yet have that clarity.

Paul Sweeney: Do any other members of the panel have a view on whether there is a need to bring sight of stage 2 amendments as close as possible to stage 1?

Rob Gowans: It would be helpful to have sight of what is proposed, even just in principle. We had started to look at areas of the bill that could potentially be amended. My colleague Hannah Tweed raised some of those with the committee when we gave evidence last year, and we have discussed some with the Scottish Government and sent it suggestions.

It is difficult to envisage where a bill might be amended if bits might change as a result of Government amendments. It would therefore be

helpful for the Government to set out how it intends to amend the bill to reflect some of the discussions over the summer and some of the announcements that have been made since then.

Paul Sweeney: A key component of what is proposed in the bill is the charter of rights, which has been mentioned in recent comments. Does the charter need to be on the face of the bill? Can it not just be subordinated to secondary legislation? Maybe Dr Elder-Woodward has a view on that.

Dr Elder-Woodward: I am not quite happy with the charter. I want to know its legal status. Does it give me a right or does it not? Could I take a matter to court or not? Those questions are still to be answered. What is the legal status of a charter? I do not know.

In answer to your first question, I think that it might be an idea to have sight of the second part before talking about principles. We need to align the second part and the principles, and if we do not have them both together, we cannot ascertain that alignment.

To go back to my first point, what is the legal status of the charter? If it is on the face of the bill, will it give me more rights? I do not know.

Dr Macaskill: Jim Elder-Woodward is absolutely right, but—dare I say it?—this is an opportunity for joined-up legislation and governance. We could soon be talking about a human rights bill and the incorporation of the International Covenant on Economic, Social and Cultural Rights, which contains within it the right to health, which itself contains a long narrative about what social care and independent living and the rights that are attached to that might mean. For the charter of rights that we are creating to have teeth in social care, it needs to be set out clearly in the human rights bill what it means for a citizen in Scotland to have the right to social care and independent living.

There is therefore an opportunity to add teeth to the bill, and to add some practical resonance to the Human Rights Act 1998. That would assure those of us who have been advocating for a human right to social care for some time.

Paul Sweeney: That is very helpful. Rob Gowans, did you want to make a final point?

Rob Gowans: We have had several discussions with the Scottish Government about the charter, because we had questions about its status and role. I think that it is intended to be an articulation of the rights that people already have, whether that is in international human rights treaties or domestic law.

It has been raised with us that the charter of patient rights and responsibilities is in law, but that

has made it quite difficult to change when there are things that have changed over time such that we might want to amend it. I can understand the rationale for that.

The most important thing about the charter is that it should have teeth. If people's rights are not being upheld, or if they are being breached, where do they get redress? How do they get something done about that? How do they get it put right? How do they claim their rights? The most important part of the charter is that people can claim the rights that are in it.

Paul Sweeney: That is helpful; thank you.

Evelyn Tweed: Good morning, and thank you for all your answers so far.

Dr Macaskill, you have talked about there being a crisis management situation right now. Workers are tired and are struggling to engage with the process that is on-going. What are the main concerns about social care capacity, delivery, culture and staffing? What more can be done right now?

Dr Macaskill: How long have we got? It is fair to say that this has been a really difficult summer for anybody who delivers social care in Scotland. Many of us, including the representative bodies, are scunnered and knackered. We are scunnered because we have offered solutions and we have been disappointed. In his first statement to Parliament on 18 April, the First Minister said that social care staff were going to be paid £12 an hour. We spent the summer asking when that was going to happen and how we were going to get it, because we needed it to retain staff and to attract new staff, at a time when Aldi is paying £13.40 an hour for a new entry. We did not get an answer until 20 weeks later and it was, "You're going to get it, but you'll have to wait until next April."

Last week, we discovered that the living wage is going to be £12 an hour, which is great, but during that misspent time of delay and dither, we have lost the opportunity to consolidate the social care sector by saying, "We value you, we recognise your contribution as a workforce and we're going to pay you £12 an hour now."

The Government has consistently said that there is no resource available. That rings very hollow to people in the sector when they see people in other sectors quite rightly gaining better remuneration and reward. We are not disparaging their success in doing so, but it is really hard for front-line social care workers to see that reality and to see that a new start in social care will get £12 per hour, when somebody of their equivalence in the NHS will get paid 19.2 per cent more for doing exactly the same job. That lack of equality of treatment and the lack of priority of social care in the midst of a very troubling period have led to a

workforce crisis, and we are losing workers hand over fist. I really fear for the winter, because it will become challenging, as the cabinet secretary said last week.

11:30

The workforce is one issue, but the second one—and then I will shut up and let others speak—is that the winter plan that was published last week by COSLA and the Scottish Government is really disappointing. It is not disappointing because of what it contains, but because of what it does not contain. It says nothing. It gives no hope. It gives no sense of confidence to unpaid carers, who are exhausted beyond measure, about the care and support of their relatives. It says nothing to front-line social care staff about how they might be rewarded and remunerated. It says very little about the third and independent sectors.

Members will be aware that Rachel Cackett and I published an open comment saying that we were “dismayed” at the lack of real engagement on that. There is a statement in the question-and-answer section that is attached to the plan that says that the third and independent sectors were thoroughly engaged and involved with the plan, but we were not. That dismayed us more than anything, because there is a deception at the heart of that statement.

There is a pretence that this is a whole-system solution and that the plan will get us through the winter. Last year, my members and Rachel Cackett’s members stepped up to the plate during very challenging times, and we helped our colleagues in the NHS to get through a pretty challenging period, but that is not going to happen this year. I have never seen such a lack of engagement and involvement from the Scottish Government and COSLA before, and it is putting social care providers in real peril. However—much more importantly—it is putting citizens around the country at risk of having packages of care withdrawn, and if they need additional care and support, not having their needs met.

The issues are with the workforce and with a winter plan that is not worth the paper that it is written on.

Rachel Cackett: I agree with everything that Donald Macaskill said.

The Convener: Thank you for coming in there, Rachel. We are very tight for time, so I ask people to keep their questions and answers sharp.

Rachel Cackett: I will do my best to keep my answer very sharp. I heartily agree with everything that Donald said.

We face a huge recruitment crisis. Last year, more than half the people who moved jobs in our

sector left the sector altogether. That is terrible for people who require care and support, because the fact is that the care and support they need is simply not there. We hear from providers every day that they are struggling to maintain their services.

The winter plans of last year and this year focus very heavily on people whose discharge from hospital has been delayed—which, of course, is right—but the number of people who were waiting for care packages or waiting for assessment far outstripped the number of people whose discharge was delayed. We are not addressing the fact that there is insufficient capacity even to deal with the need that we know about, let alone unmet need; we are far away from that.

We are still in a position in which ethical commissioning is meant to be part of the bill. I heard witnesses in the previous session talking about the lack of conversation about procurement, but the fact is that I do not think that the Verity house agreement and what has happened since is off the mark. We will have a national care service that local and national political leaders want to share accountability for. However, at this point, it feels like an on-off relationship that could be part of “Married at First Sight”; I do not know whether we are in or out. The fact is that while that is going on—there may or may not be a fully funded council tax freeze—either money is going to have to be found locally or money is going to have to be found nationally, but that money is going to have to be found somewhere. If it is not, the crisis in social care will only get worse. Competitive tendering on price still happens too often, and the bill is meant to deal with that, but we cannot wait for the bill. We could be doing it now, but we are not.

Evelyn Tweed: I will try to be brief, convener.

Last week, we heard that a national social work agency could support and invest in social care careers and career paths; indeed, the trade union representatives mentioned that, too. Such a move could ensure that staff could progress if they wished to. What are your views on that?

Dr Macaskill: That could happen, but the question that you are asking us to answer is not the primary one. The fact is that career pathways are essential for social care. We have the most fantastic women and men working in the sector; they have taken us through hell and back, and they are still there. The level of mental health fatigue and burn-out is deplorable.

We need to think immediately about planning for the future to ensure that we have a laddered system of career pathways in social care and that we create integrated multidisciplinary teams in our community that involve healthcare provision—in

acute and secondary care, primary care and general practice—and social care. However, that is really difficult, given that, in home care, the differentials between the rates for a carer who is fresh in the door and those for a senior carer or even a supervisor in the community are very marginal, as a result of the lack of investment and resource.

Career pathways are possible only if we have whole-system maturity. At the moment, we are managing with the crumbs of what is left over from the myopic attention to the NHS.

Emma Harper: I have a quick question about self-directed support. It is 10 years since the Social Care (Self-directed Support) (Scotland) Act 2013 was passed, and the committee has heard questions about how self-directed support is working or not working. Donald Macaskill has said that 70 per cent of care involves third sector organisations. I am interested in the difference that the bill can make in addressing immediate challenges in social care, such as improving self-directed support, which is all about people taking control and making choices for themselves.

I am not sure who wants to answer that first.

Rachel Cackett: I am happy to talk about the issue, as it is close to many of my members' hearts. They are very involved in attempting to fully implement self-directed support, which, as you have said, has been a challenge.

What we have is a good piece of legislation that has not yet been implemented in full, and the bill might well have provisions that could help to deliver it further, but the need for a cultural shift lies at the heart of why self-directed support has not perhaps delivered what we would have liked. Early in my career at CCPS, a member said that, if we had implemented self-directed support properly, we might not have needed the bill, which was an interesting perspective.

Genuinely giving people choice through self-directed support means that those who currently have control must give it up. It means thinking completely differently about the rights that we have talked about for people to have choice and control over their support and care, and it also means that a personal assistant or somebody who is employed through a provider organisation must be available to deliver the support.

All of those things are problems, because there is risk aversion, and the understanding of what self-directed support could do to support people to thrive is not always great. We need to do much more, particularly with local government, on how self-directed support could work. I look forward to such conversations emerging over the coming months as we take the bill forward, because the issues are directly linked.

Dr Elder-Woodward: The 2013 act was very important for disabled people. Not only were we involved in the writing of it, but we also expected it to change the care scene to allow disabled people to be the subject of their support and to be able to manage and control the systems and services that give them a life to live. However, there is an adage that says that an act cannot change a system without the culture being changed—and the culture within social care did not change to facilitate the act.

For example, either we were not told about option 1 or we were told that option 1 was too difficult for us to manage and that we needed to be looked after by the social care delivered by local authorities and the third sector. People were a great deal put off by the assessing officers of local authorities.

The real problem with option 1 was the lack of support to become an employer. There is no real support in the local area to help people take on for the first time the responsibilities of being an employer. In order to have independent living, we ought to be able to have the support in the community provided by our own peers; we need that peer support for option 1. That means that disabled people need to come together to support one another and help people manage their support.

The Glasgow Centre for Inclusive Living helps more than 1,200 disabled people in Glasgow through peer support with payroll and human resources issues. However, we have only three centres for independent living in Scotland. In 2005, the Cabinet Office published a report called "Improving the life chances of disabled people", which recommended a CIL in every local authority by 2025. There needs to be a peer-supported organisation in every authority to help those on option 1 manage their own packages. At the moment, that is lacking.

What I can tell you is that you cannot empower the individual without empowering the collective. That is as true for unions and companies as it is for disabled people. If you want to empower the individual, you need to empower their collective, and that is not happening.

The Convener: I am very conscious of time. This session is due to finish in 11 minutes, but members still have quite a lot of questions that they want to ask. If the witnesses are happy to stay until 12 o'clock, that will, I hope, help us to get through more of our questions.

11:45

Tess White: Last week, Dr Donald Macaskill and Rachel Cackett described the Scottish Government's winter plan as "wholly insufficient"

to address the crisis in the sector, which was said to be going in a “deeply disturbing direction”. Could you kindly elaborate on those remarks?

Rachel Cackett: What was purported to be, as Donald Macaskill said, a whole-sector plan includes very few commitments to the sector, and no real money has been attached to the commitments that have been made. I appreciate that this year’s winter plan does not come with a lot of money—I am sure that our NHS colleagues would say that, too—but it does not take into account the fact that Donald Macaskill and I have been sitting in many rooms raising these issues for some time now. What we have said simply does not seem to have been adequately heard. Our sector is really struggling to continue to provide a service.

Instead of being based on what we have discussed today, which is people’s right to access care and support when they need it, the winter plan is very much predicated on the need to get people out of hospital quickly. That is, of course, not a bad thing—we do not want people to sit in a hospital bed any longer than they need to—but it misses the point of social care. It goes back to what I said earlier, which is that we should be supporting people in our communities to thrive. We should be stopping people going into hospital in the first place. If we do not have a social care system that does that, we are just plugging a leaky bucket and are not dealing with the issue at source.

What disturbed me most, aside from what Donald Macaskill has already said, was the statement in the winter plan that suggests that social care funding can be diverted simply to fund social care support for those who are most in crisis. It is not as if we do not know that that might be happening in some areas, but the fact that it has been written down and endorsed by the Scottish Government and COSLA puts anyone in receipt of social care and support in a really dangerous position. When we know that things are tight, with local government and central Government struggling for funds, and when there is still no agreement on council tax, that statement reads to us as local partnerships and councils being given carte blanche to start taking away important funding provision from all those who require social care to thrive. As I have said in blogs, the Government has said that its priorities are equality, opportunity and community, but I do not think that the statement supports any of those priorities at all.

Dr Macaskill: I have probably said enough about the subject already, but I will just add that I have been around these tables for a long time and have never before experienced this lack of engagement and inclusion of the majority of those

who deliver care and support at the front line. It is deeply disturbing.

There is more to life and more to our priority as a nation than addressing delayed discharge, accident and emergency department waiting times—regardless of the trauma outlined on the front pages of our newspapers this morning—and avoidable hospital admissions. The only way in which social care can deliver is through adequate resourcing, inclusion, prioritisation and presence. If the Government allows social care to aspire to and achieve what it can deliver, we will address delayed discharge, because delays are caused primarily by social care packages not being available for people; we will prevent people from unnecessarily being admitted to hospital, because that is a social care outcome; and we will support accident and emergency departments to reduce waiting times, which are caused, in part, by an overcrowded internal NHS acute secondary system. The failure to think about, include and plan for the whole system means that the response is fragmented, damaging and dangerous.

Tess White: I have a quick follow-up question for Rachel Cackett. In July, the CCPS published a report that raised a red flag about the number of staff leaving the social care sector altogether. You have mentioned pay and made references to Aldi, but what are your main concerns about social care and support in relation to capacity, delivery, culture and staffing?

Rachel Cackett: For a brief answer, that is a big question. What we put out in the July report remains and has increased. As Donald Macaskill has already said about the announcements on pay, they have been deeply disappointing and, if I am honest, damaging to the hope of the sector. Turnover rates are increasing at an alarming rate. I still speak regularly to members who are struggling to maintain the services that they already have, let alone expand to address need, which is an issue given that we are going into the winter; and we still have a serious cost of living crisis.

On the ability to deal with the inequalities and outcomes that we see in communities—there was press coverage this morning of that—it is becoming harder and harder to manage. I talk to members, even in areas of significant Government priority, who are seriously considering having to close services or to hand back or reduce contracts. None of us wants to be in that position.

As Donald Macaskill has said, we have wonderful staff working in this sector who are really committed to the importance of social care and having continuous relationships. It is not about episodic care; it is about people feeling that they can trust the people who they work with to support

them in their daily life to thrive, whether that is at home in the community, in work or in school. That requires trust and continuity. However, that continuity is increasingly difficult to provide when we are struggling to fill rotas to manage the number of people in service.

The lack of investment is commensurate with what we see going on elsewhere. Like Donald Macaskill, I do not begrudge our colleagues across the public sector the pay awards that they have received, but it does not ring true to say that there is no money when there has been a decision to allocate money that has not come our way. We have to be really honest about that, and that is the situation that we are in.

There continue to be contracts that depress price; there is uncertainty about the future in terms of where funding will come from; there are difficulties in meeting existing need, let alone unmet need, with the available workforce; and there are enormous pressures that have been building on the sector not for a short time but for a long time. Those matters are definitely coming to a head right now.

Tess White: Wow. That is it in a nutshell.

David Torrance: Good morning, panellists. Thinking about how ethical commissioning is or could be in the bill, what would you like to see?

Rachel Cackett: I am happy to kick off on that. CCPS has been working in the field of ethical commissioning and procurement for many years and has done as much as we can to offer practical solutions.

There are almost two questions in your question, because we could do without the bill when it comes to ethical commissioning. There is an awful lot that we could be doing now to reform the practice of how commissioning happens and then how procurement happens. It is important to remember that, in the current system, commissioning and procurement are split because IJBs cannot hold contracts. IJBs and health and social care partnerships work together to create a commissioning plan for their local area, and they then have to direct local government to contract for services.

A question for me about the bill, which we now know will be rewritten, is whether that should continue. My assumption had been that, with a national care service and local care groups, there would be an integration of commissioning and procurement, which might deal with some of the issues that we have between the vision and reality when it comes to the buying of service from providers. Given the agreement over the summer, I no longer know where that sits. I do not know whether the split between commissioning and procurement will remain, which is a question that

we need to look at in relation to what the Government and COSLA are expecting.

There are aspects that we could come back to. There are already some important statements in the bill on procurement. From the work that we have done, including putting out things such as new model contracts, we have seen that it comes back to what Jim Elder-Woodward said earlier about this being a cultural issue. We could be making decisions now that would change how commissioning practice works and would stop this being about price competition. I understand the funding pressures that local and national Government are under, but we should be partners in finding solutions. We are too often in battles about funding to be able to manage a service that will meet current—let alone unmet—need.

I am particularly interested in what will happen with money flow. In all these things, money is power, and I am not convinced that the agreement that was made over the summer does not just keep money flowing in the same way as it does now.

Dr Macaskill: I will answer quickly, because we are short of time. I would like us to stop talking about ethical commissioning, because that means so many things to so many different people. I would rather we started talking about human rights-based commissioning, contracting and procurement, which—like human rights-based budgeting—is well recognised internationally. We should put rights into the charter of rights and into the other legislation that will soon come before Parliament.

We must get better at how we contract, procure and commission important social care provision. The term “ethical commissioning” is just too loose; it can mean so many things. Even if we develop a set of principles, unless we tie them into robust legislation, it will continue to be interpreted in different ways. Once again, there is an opportunity, but we must be around the table to take part in those conversations, which cannot be left to the Scottish Government and COSLA, which are the traditional contractors and commissioners.

Dr Elder-Woodward: Can I come in quickly? Although I agree with Donald Macaskill that we ought to get rid of ethical commissioning and replace that with a human rights-based commissioning process, regarding ethics, we need to fund care and support organisations. I have made this point before: the history of care and support in Scotland is a history of regression. A lot of local groups, up and down the country, have lost their funding, which has gone to large commercial organisations or to in-house provision by local authorities. If you want to talk about ethics, one ethic ought to be to empower

individuals by empowering the collective, but that has not happened to date.

David Torrance: I am happy to move on because of time.

The Convener: We have to draw our session to a close. I apologise to members who have not been able to get their questions in. I thank the witnesses for their evidence.

At our meeting next week, we will hear from Public Health Scotland about minimum unit pricing for alcohol. That will be followed by an evidence session with the Minister for Social Care, Mental Wellbeing and Sport on the Mental Health (National Secure Adolescent Inpatient Service: Miscellaneous Amendments) (Scotland) Regulations 2023.

That concludes the public part of our meeting.

11:58

Meeting continued in private until 12:37.

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