

HEALTH AND SPORT COMMITTEE

Wednesday 9 September 2009

Session 3

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CONTENTS

Wednesday 9 September 2009

Col.

PUBLIC SERVICES REFORM (SCOTLAND) BILL: STAGE 1	2125
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HEALTH AND SPORT COMMITTEE

22nd Meeting 2009, Session 3

CONVENER

*Christine Grahame (South of Scotland) (SNP)

DEPUTY CONVENER

*Ross Finnie (West of Scotland) (LD)

COMMITTEE MEMBERS

*Helen Eadie (Dunfermline East) (Lab)

*Rhoda Grant (Highlands and Islands) (Lab)

*Michael Matheson (Falkirk West) (SNP)

*Ian McKee (Lothians) (SNP)

*Mary Scanlon (Highlands and Islands) (Con)

*Dr Richard Simpson (Mid Scotland and Fife) (Lab)

COMMITTEE SUBSTITUTES

Joe FitzPatrick (Dundee West) (SNP)

Mr Frank McAveety (Glasgow Shettleston) (Lab)

Jamie McGrigor (Highlands and Islands) (Con)

Jamie Stone (Caithness, Sutherland and Easter Ross) (LD)

*attended

THE FOLLOWING GAVE EVIDENCE:

David Cumming (Social Work Inspection Agency)

Nigel Henderson (Community Care Providers Scotland)

Ranald Mair (Scottish Care)

David Manion (Age Concern and Help the Aged in Scotland)

Jacquie Roberts (Scottish Commission for the Regulation of Care)

CLERK TO THE COMMITTEE

Callum Thomson

SENIOR ASSISTANT CLERK

Douglas Thornton

ASSISTANT CLERK

Seán Wixted

LOCATION

Committee Room 6

Scottish Parliament

Health and Sport Committee

Wednesday 9 September 2009

[THE CONVENER *opened the meeting at 10:00*]

Public Services Reform (Scotland) Bill: Stage 1

The Convener (Christine Grahame): Good morning. I welcome everyone to the 22nd meeting in 2009 of the Health and Sport Committee. I remind members, witnesses and members of the public to switch off their mobile phones and other electronic equipment. No apologies have been received.

Our first item of business is an oral evidence session as part of our scrutiny of the Public Services Reform (Scotland) Bill. The Health and Sport Committee is one of several secondary committees examining the bill. The parts of the bill that are relevant to the remit of our committee are part 4, which will establish social care and social work improvement Scotland, and part 5, which will establish healthcare improvement Scotland. Over the next three weeks, the committee will take oral evidence on the establishment of both those organisations, as well as hearing from ministers. We will then report our conclusions and recommendations to the Finance Committee, which is the lead committee for consideration of the bill.

We have before us today a panel of witnesses from a variety of organisations who will give evidence primarily on part 4 of the bill. I welcome David Manion, chief executive of Age Concern and Help the Aged in Scotland; Jacquie Roberts, chief executive of the Scottish Commission for the Regulation of Care; Nigel Henderson, convener of Community Care Providers Scotland; Ranaid Mair, chief executive of Scottish Care; and David Cumming, deputy chief inspector at the Social Work Inspection Agency. My practice is that, when members ask questions, you should simply self-nominate by indicating to me that you wish to answer, and I will invite you to do so.

Although we will focus primarily on the establishment of social care and social work improvement Scotland, I am aware that our witnesses may also wish to express some views on part 5 of the bill, which establishes healthcare improvement Scotland, as many of them addressed that in their submissions. I propose to take any comments that witnesses may have on

that part of the bill towards the end of the session. We will deal with the proposed amalgamation first.

I thank all the witnesses for their substantial written submissions. We have all been very good and studied them, and I am sure that members have lots of questions.

Mary Scanlon (Highlands and Islands) (Con): First, I want to ask a very general question. As Christine Grahame said, I was busy reading the submissions last night, and I was amazed to find out that it is estimated that the proposed changes will result in cost savings of only £640,000 by 2014. I also discovered that the Convention of Scottish Local Authorities and Unison believe that the proposed reduction in the number of quangos is cosmetic and that, according to Unison, SWIA has stated that many of its staff would want to leave the civil service and apply for other vacancies rather than transfer to the new body.

We are talking about a huge change. What is the witnesses' understanding of the reason for it? How do they feel that it will improve scrutiny in Scotland? Are they as amazed as I was that the cost savings will be minimal?

David Cumming (Social Work Inspection Agency): It is fair to say that the journey of scrutiny over the past few years has been quite varied and has progressed at different paces. The Social Work Inspection Agency was established only in 2005. As you will see from our submission, we have conducted substantial performance inspections of the social work services of Scotland's 32 councils, as well as some quite significant multi-agency inspections.

It is important to understand that those inspections are very much just the precursor to establishing an understanding of how providers of services improve their performance. In our view, the inspection of social work services is moving into a different phase, which is more about service improvement. We would always equate the inspectorial role of external scrutiny with improvement. Those comments are probably sufficient at this stage, as I am sure that colleagues will have other points to make.

Ranaid Mair (Scottish Care): Reorganisations do not achieve huge savings—the experience is that they do not—so it is probably naive to assume that huge financial gains will result from such an exercise in and of itself. The two gains that one might hope for are, first, in the quality and scope of regulation and scrutiny and, secondly, in the demands that scrutiny makes on the agencies that deliver care services. Probably the bigger cost for service providers is not the financial cost but the amount of time that they must devote to collecting information and responding to the demands of public scrutiny. Service providers will therefore

look for the following sorts of gains: does the reorganisation allow for a different style and scope of scrutiny, and does it reduce any unnecessary duplication in scrutiny activity and the overall demand on their time that scrutiny takes up? Such improvements would be tangible gains, although they might not be purely financial gains.

The Convener: How would you answer those questions that you have posed?

Ranald Mair: As I outlined in my submission, bringing together the functions of the care commission and SWIA ought to allow us to take an holistic view of the experience of service users. We should be able to track the experience of Mrs Smith from the point of referral to her assessment by field social workers, the commissioning of any service inputs that she requires, the delivery of that care by registered care bodies, and the review of that experience. In other words, instead of compartmentalised scrutiny of different elements by different bodies, we should look holistically at the experience of service users. That would be an improvement.

Can we make inroads into the demands of scrutiny? As I highlighted in my submission, a missing ingredient in the bill is any reference to the scrutiny that local authorities carry out through their service-commissioning and contract-compliance activities. Independent providers, such as voluntary and private organisations, experience the largest amount of duplication in having to provide often the same information in slightly different formats to both the formal scrutiny bodies and the local authorities as part of their service-commissioning and contract-compliance activity. I would like to see a greater alignment there, as well as a reduction in the demands that are made directly by the regulatory bodies.

Jacquie Roberts (Scottish Commission for the Regulation of Care): I have no doubt that bringing the two functions together will help to reduce unnecessary duplication. It is possible for SWIA and the care commission to send out questionnaires to service users and their families for two separate inquiries. It will be good to bring the two bodies together to work in a much more integrated way. Bringing the two bodies together is about not just bringing them under one roof but examining and integrating their methodologies, sharing information and analysing where the greatest risks are.

For me, it has been helpful to look at the issue from the point of view of service users. For example, a parent of a young person with multiple physical and learning disabilities needs to know that the local social work, health, education and housing departments are working together and are well led. Bringing SWIA and the care commission

together will help to contribute to that assessment of working together in a multi-agency way.

The parent then needs to know that the social worker or care manager works for a high-performing department, does their job well and liaises well with health services—that level needs to be considered. They also need to know that the respite service that their child attends is safe and provides good experiences, and has staff who are well trained and able to respond quickly to health emergencies. There needs to be scrutiny of the individual service, too. If the two functions come together it might be possible to visit some services less often, if they are commissioned by and working for an authority that has a very high score on quality of professional service and corporate governance. It might be possible to reduce the amount of time that is spent on services in which there is less risk.

Helen Eadie (Dunfermline East) (Lab): There has been no consultation on the bill, which concerns me. I think that one of the biggest issues for every organisation in the public sector is the personnel—the staff who do the caring. When local authority and health board staff were transferred to the care commission under the Regulation of Care (Scotland) Act 2001, a scheme had to be established, on which there had to be consultation. The bill provides for the transfer of staff from SWIA, who will move from the civil service pension scheme to the local government pension scheme. I think that we all understand that that might be a huge source of discontent for people, who will not want to move from the civil service pension scheme. Do the witnesses anticipate severe problems in that regard?

David Cumming: In numerical terms we will represent a small part of the new organisation. As we said in our submission, our staff have civil service status, and aspects such as pension entitlement weigh heavily on colleagues.

It is fair to say that one of the hardest issues that we face is the degree of business continuity that we hope to maintain, given that we are still involved in day-to-day work in engaging with stakeholders.

We have made it clear in the conversations that we have had that what is proposed is very much a new undertaking. As Jacquie Roberts said, the aim is to improve integration, but if that is to happen it is important that the workforce should be equally skilled and able to do the work. It is also important that the gains that we have made in the development of expertise should be taken forward into the new organisation.

There are serious issues on which we have not yet properly been able to reassure staff. For example, there might be a facility to allow some

people to go back into the civil service, for example through the principle of common citizenship. However, as yet, staff have not been assured that there will be such a facility.

David Manion (Age Concern and Help the Aged in Scotland): I recently went through a merger, and I can assure members that the issue of staff terms and conditions is complicated.

The more important issue is that the proposed new body will be a non-departmental public body. That is an issue of both principle and governance, because the body will be one step removed from Government as an inspection agency. Once the view had been taken that the new body must be a non-departmental public body and therefore a little further away from Government, it was inevitable that there would be problems with terms and conditions. However, the principle is more important, because it will ensure that users of services are better served.

Jacquie Roberts: Without pre-empting the Parliament's decision, much work could start now on organisational development and on bringing together the two staff teams. The care commission would welcome the expertise of SWIA staff.

David Cumming: There are certainly issues for two staff groups, but a third staff group is also involved: those who are with Her Majesty's Inspectorate of Education, who would join in the context of the child protection programme. Three different organisations will have to be brought together in quite a skilled way over the next couple of years.

10:15

The Convener: I will let Helen Eadie back in later; I am letting each member have a question to start with, and we can then develop them.

Ross Finnie (West of Scotland) (LD): My first question is a general one, and I will illustrate it with reference to the submission from the care commission. Like the convener, I have found all the papers extremely helpful. I do not wish to appear to be picking on you, Ms Roberts, but having opened up a number of interesting points in your submission, you park them by using the phrase:

"we have been advised that they will be considered at stage 2".

Other submissions express similar points but do not use such explicit language.

Although the convener was absolutely right to say that the essential purpose of this evidence session is to allow us to advise the lead committee as to whether we agree with the general principles of the bill, it has been the practice of the committee to assemble matters of important detail

and narrate them as issues that the Government ought properly to address if we are to proceed beyond stage 1. I would therefore find it helpful—as perhaps my colleagues would—if the witnesses developed those points further.

I have referred to the care commission's submission by way of example, but if we agree with the bill's principles it will be difficult for us to address specific issues to the Government if the witnesses do not tell us precisely what their concerns are. I will not try to enter into their minds to guess what those concerns might be, but I wonder whether all the witnesses would be willing to write to the clerks with some more detail on subjects that have been parked. We would be able to pursue them on the basis of such written submissions.

The Convener: And then raise them with the minister—the key thing is to test them.

Jacquie Roberts: I can give a brief answer on that point. We refer to particular technical amendments at stage 2, for example on emergency cancellation, which is not covered in the bill at the moment. We would be able to provide you with a list of amendments that we expect to be made at stage 2—that would be no problem at all.

Ross Finnie: I accept that. Unless somebody raises a point, however, amendments might not be made.

Jacquie Roberts: My understanding from the bill team is that a great deal of preparation has been going into stage 2 amendments. I am very happy to—

Ross Finnie: Sorry—that is fine as far as the bill team is concerned, but I am emphasising the public process and our role as the committee. It is not a question of our thinking, "Gosh, the bill team has thought that up. That's a jolly good idea." The process requires the Parliament to be able to identify the good ideas and members to be able to read the evidence from, say, the care commission and Age Concern that supports whatever proposition the bill team might put forward.

Jacquie Roberts: I am certainly very happy to provide the information in writing to the clerk.

The Convener: This is difficult for us, as we are not the lead committee on the bill—which is quite unusual for us—and it is for the lead committee, which is the Finance Committee, to consider those points. We will flag up the issues to the lead committee, which can take evidence if there are substantial amendments to be made at stage 2.

Nigel Henderson (Community Care Providers Scotland): It might be helpful for me to highlight some of the points in the evidence that we provided to you. Community Care Providers

Scotland is very supportive of the creation of the new body, and we see opportunities to streamline and improve the scrutiny landscape, but there are some interesting differences. At the moment the bill seems to be amalgamating the two existing bodies rather than integrating them. Although the new body will have enforcement powers in relation to care services, it will have none in relation to social work services. That is an important point—I refer in particular to what Ranald Mair said about being able to follow a person's journey through the whole social services process. Why pick on care services and have enforcement there if some of the problems are further up the line? That is one important aspect of the proposals that is not really addressed in the bill.

Members of the public, who can make complaints to the care commission, will still be able to complain about care services, but they will not be able to complain to the new body about their assessment, their care management or any other aspect of social work. That is slightly uneven, is confusing for the public and misses an opportunity fully to integrate the scrutiny landscape.

The Convener: Does Mr Cumming want to comment on that? It is an interesting point.

David Cumming: Yes, it is an important point. Perhaps the bill may lead to the integration that we lack on that matter. Much of the work that we have done in the 32 councils has concerned considering the experience of service users and how we can demonstrate their improved life circumstances in terms of improving outcomes. There are arrangements within our performance inspections, which are quite extensive, that drill down into some of what Nigel Henderson is talking about. However, it can go beyond that. That is where there is potential for SCSWIS to provide a better and more integrated approach.

The Convener: Are you talking about parity?

David Cumming: It is a difference. The question as to whether it is amalgamation or integration—

The Convener: I meant parity of enforcement powers. Is that what you are talking about?

David Cumming: It is true that SWIA does not have enforcement powers, but it reports to Government ministers. I contend that, in all 32 councils, we have made reports that have led to significant changes. The extent of external scrutiny has probably added to the impetus for change. I suspect that, were there not the same degree of external scrutiny, there would have been no impetus for change. Although it is not enforcement per se, it is a way in which the reporting line has—

The Convener: I was thinking of name and shame.

David Cumming: The fact that we have reported is sometimes on the public record. It is an important part of how the improvement action planning takes place. Beyond our published report, we engage with the councils for at least a year—sometimes beyond that—to try to ensure that the improvement actions that accrue from the inspection are followed through and are meaningful not only organisationally but at the level of the service user.

Ranald Mair: Let me develop the point a little further. Many voluntary and private providers that deliver care on behalf of local authorities feel that their ability to provide services relates directly to the commissioning practice that supports those services. If they are regulated and can be subject to enforcement action for the quality and standard of what they deliver, there must also be enforceable standards for the other aspects of the process—commissioning, case management and assessment—because the quality of a user's experience will be directly determined by matters that are outwith the control of the registered body that is subject to enforcement action. In practical terms, the view of provider organisations is that we need to create an integrated process and a level playing field for enforcement.

David Manion: Some committee members were in this room for a showing of the programme "Britain's Homecare Scandal: A Panorama Special". In that case, it was arguable that the problem was not so much with the care providers but with the commissioning process—the so-called reverse auction. The test for the committee is how we would prevent that situation from recurring and why we would allow commissioners to function in that way but put our boot on the providers' necks. Age Concern and Help the Aged in Scotland agree with Ranald Mair and the other witnesses that the playing field needs to be levelled. Whether that is achieved through enforcement powers is a matter for legislators, but the situation is anomalous as it stands.

Jacquie Roberts: Members of the public hold dear the fact that they have an independent body that can investigate complaints. It is hard for them to understand that they can have a complaint investigated only if it is against a registered care service. It is important to sort out the complaints system so that we have an even playing field.

Michael Matheson (Falkirk West) (SNP): I want to stay on the difference between the commissioning and service provision aspects in relation to enforcement. I am a former care manager, but I am struggling to get a handle on exactly how the enforcement provisions on the commissioning, assessment and referral side will

be handled. The normal protocol for someone who has concerns about the way in which an assessment has been conducted would be through the local council complaints process. Due diligence would then apply and, if the investigation found that a person had been in breach of professional standards, they could be referred on to the appropriate statutory body for further investigation. However, how would the level playing field to which the witnesses have referred interact with that process? How would we ensure that we did not duplicate the role of the registration bodies, which have a function in that process to a degree, or the local authority complaints process, which is the first stage that anybody goes through if they have a complaint?

Nigel Henderson: Currently, if a service user wishes to make a complaint about a care provider, they are absolutely free to make that to the care commission, anonymously or openly. Equally, they can make a complaint to the care provider. Often, there is duplication of the process, because the care provider will have its complaints process and the care commission might investigate the issue separately, although it will consider the complaints process that has been undertaken and ask the provider to account for it. There is not necessarily a huge difference in relation to local authorities, although I agree that it could be time consuming if there was duplication every time a complaint was made about a particular care management role. My understanding of SWIA's role is that it tends to examine the overarching process and sample some individual cases, but it does not focus on the individual. By examining an individual case, SWIA might throw up flaws in the overarching process and make recommendations on that, rather than on the individual case, so there is an opportunity to improve the process. However, if the new body has no teeth to do that, the chances are that it might not happen.

Ranald Mair: Perhaps I can help. The process that the care commission has been involved in with providers for several years started with the development of care standards, which say what can be expected in the delivery of care to different service user groups. If we applied a similar process to assessment or the commissioning of services, the starting point would be national standards that set out what the quality of delivery should be. Enforcement action can be taken or complaints pursued only if we have defined in the first place what the standard of delivery ought to be. Work would need to be done in that territory.

It would be anomalous if the new body could inspect services and the quality of care that is delivered, but could take enforcement action or uphold a complaint and impose requirements on a provider only in relation to service delivery in a care home or care at home services, and not in

relation to the parts of the process that led to that experience and are meant to support it. I am talking about issues such as whether social workers attend reviews, whether the assessment of need has been conducted and whether the commissioning process was sound. It would be anomalous to examine only one part of the experience and not the other. There are ways in which people can complain to a local authority, just as there are ways in which people can complain to any organisation that delivers care. However, it so happens that, at present, we have an independent complaints process through the care commission. The suggestion is simply to extend that additional protection to the other parts of the experience. The key would be to define in the first place the standards that would be expected, and then look at how complaints could be pursued.

10:30

David Cumming: I do not want to go over those points again; they have been well made. It is true that our performance reporting looks at some aspects of high-level commissioning, and we have reported on commissioning in every report that we have written, but the issue is about how commissioning practice can be evidenced. Given that the proportion of local authorities' spend in this area is usually in excess of half their care budget, it is important that the commissioning process is well placed to improve services.

I do not think that we have gone into the issue in great detail. We recently produced a piece of work about commissioning practice from our reports, but that is distinct from enforcement action. That approach could be a way in which we could level the playing field and drill down into some of the experiences that people have had, especially the adverse ones—they might be in a minority, but they are no less important.

The Convener: Michael Matheson wants to ask about enforcement.

Michael Matheson: Yes. I am afraid that Nigel Henderson is confusing a few different parts of the process. I can understand that you want a body that has an enforcement role in looking at how a local authority commissions certain services and the policy for doing so, but there is a marked difference between that and looking for an enforcement process to deal with issues such as how referrals are handled. For example, if the local authority's representatives did not turn up for a review, a person should be entitled to go to the enforcement body to complain about that. A process already exists to deal with such issues.

In trying to achieve a level playing field, a distinction has to be made between the corporate

function of the local authority, which might have a commissioning aspect to it, and a person's ability to complain about how the authority conducts that process, and the way in which an individual case is handled by an individual worker. That would be a different type of enforcement action. You are confusing both sides of that argument.

The Convener: The witnesses are rallying to that call.

Nigel Henderson: The issue then is that if an individual worker has done something wrong, the local authority should have processes and systems in place—

Michael Matheson:—that are enforceable.

Nigel Henderson: Absolutely. They are enforceable by the local authority as the employer. However, if there is a cultural or systemic problem around assessment, care management or whatever, how should that be addressed? That might be where enforcement action could be taken.

Michael Matheson: I accept that, but that is different from dealing with individual cases. You are talking about the corporate function of a local authority and how it handles the commissioning of services. You are creating confusion here because you appear to want another complaints process, with enforcement action taken against individual workers if people are not happy with the service that they receive. You have to be careful about exactly what you are asking for when you ask for a level playing field.

Nigel Henderson: I will reframe what I am asking for then. I am asking for a level playing field when it comes to enforcement around systems and processes. That is largely the kind of approach that the care commission takes at the moment. It sees fundamental flaws in a care service where there are systemic problems.

Let us keep individual complaints separate. There should be a level playing field for individual service users so that they can complain about any aspect of their care pathway, and so that the independent body can investigate the complaint. Enforcement might not ensue from that, but there should at least be a complaints procedure that allows some upholding of an individual's complaint, otherwise the public will be very confused about why individuals cannot complain about the whole experience.

Michael Matheson: Are you suggesting that local authorities be stripped of the power to investigate local complaints?

Nigel Henderson: No.

Michael Matheson: That is what you seem to be suggesting. You want a body that is

independent of the local authority to deal with individual complaints.

Nigel Henderson: I want service users to have the same opportunities that they have at the moment. They can complain to us as the care provider, but equally they can complain to an independent body—the care commission—if they feel dissatisfied with our response, or they can even go straight to the care commission. That same level of service should be afforded to people whose experience of social work is not what they want it to be. There is duplication, but it is important that there is independence, and the opportunity for it.

Ranald Mair: Nigel Henderson has outlined the main points.

I do not understand the distinction that Michael Matheson is drawing between the local authority and other service provider bodies. Most organisations that deliver services have internal complaints procedures. If one is dealing with specific conduct matters that relate to individual members of staff, there is recourse to the professional bodies that can deal with those issues, but in dealing with a registered care organisation that is delivering care, people have the right to go to the care commission and say that they are unhappy with the service that they have received from the organisation or, indeed, from individuals within it.

I do not see why the parts of the service delivery process that are handled by the local authority should be exempt from that independent system. That would mean, in a sense, that the authority regulated itself. Michael Matheson is saying, in effect, that if I am unhappy with what I get from the local authority, I can complain to the local authority.

We now have an opportunity to consider the experience of service users in a more integrated manner and create a level playing field around that. I will continue to assert the possibility, and— from the perspective of providers and service users—the desirability, of doing that.

The Convener: I will let Jackie Roberts come in on this question, and then we will move on. We can come back to the point, but I want to allow other members to ask their questions.

Jackie Roberts: I want to emphasise the role of the Scottish Social Services Council, which is there for people to complain to and which has enforcement powers in relation to individual workers. Whether or not we are talking about enforcement in relation to local authorities, it is important that we connect the commissioning practice and systems delivery of social work services and care management to outcomes and to the experience of service users and their

families. Once we make that connection, it will be possible to make changes in the local authority. That approach would be fairer than the current system in which the only body on which we can enforce changes is the registered care service. It would be possible to do that whether or not there were formal enforcement powers.

Rhoda Grant (Highlands and Islands) (Lab): I want to expand on the same topic. Are you considering something along the lines of HMIE's role in schools? The schools are subject to council control and direction, but HMIE comes in on a regular basis to inspect and report on how they deliver education. Are you seeking something like that in relation to social work services in a council?

Jacquie Roberts: David Cumming might want to answer that.

The Convener: I am not chairing any more—it does not matter. I enjoy a light touch, Ms Roberts. I have few powers in the Parliament and you have just taken one from me, but never mind.

David Cumming: In the broader context of external scrutiny and regulatory services, there is a shift. I am not saying that less is more, but we must recognise that the efforts of providers have been quite important during the past few years—we should not underestimate that. We have been developing some work on self-evaluation, as other agencies—such as HMIE, in relation to schools—have done.

It is important to recognise that, as Professor Crerar mentioned, responsibility for improvements lies with providers themselves. However, in order to effect the changes that would lead to such improvements, it is sometimes important to have an external agent. The culture within which that is undertaken, the way in which it is done and the perception of whether there is a level playing field is important because, ultimately, improvement will not happen unless people are motivated to do it.

It would be wrong for me to try to make comparisons with HMIE's position, because its history is different and the experience of health and social care in Scotland is different. Since the changes in the 1990s as a result of the national health service community care legislation, many more people are enjoying a better quality of life by virtue of not residing away from their own homes. How we evaluate, inspect and improve on that service is part of what the combination of individual and organisational changes is attempting to address.

I am sorry if that is a roundabout answer to your question, but the situation is complicated and my experience in local authorities is that, although they might not always have welcomed the phone call to say, "Congratulations, we are coming to inspect you," they have been up for the challenge

of improving services. That should not be underestimated, but there must also be a recognition that those same authorities are commissioning services from a range of other providers whose quality must be of a comparable standard.

Rhoda Grant: On commissioning and procurement, could the problem not be solved by changing the direction given to local authorities on how they commission care providers, so that they would have to have regard to reports carried out by the new body or the like? Procurement and commissioning currently tend to be done on cost. We have best value and similar mechanisms, but it always seems to come down to who can provide the service cheapest, with little regard to whether someone is at the top or bottom end of care provision. The inclusion of a duty to have regard to investigations by the new body might change that and ensure that the best quality of care is provided rather than the cheapest.

The Convener: I cannot recall whose submission that comment was in.

Rhoda Grant: It might have been Scottish Care.

Jacquie Roberts: I endorse that suggestion. The good local authorities are using the care commission's information about grades and the quality of services very well when they are commissioning care. Commissioning guides are being developed for local authorities. I know that some team managers think that the poor grades in certain service providers are a direct result of poorly informed commissioning by some local authorities, so they would like the two to be linked.

The Convener: Mr Henderson wants to comment. I think that the suggestion was made in his submission.

Nigel Henderson: I think that it was.

The Convener: It is on page 4 of your submission.

Nigel Henderson: We would like the issue to be addressed, because we are aware that such information is not necessarily looked at, particularly during retendering, when perfectly good services that are getting good scores from the care commission sometimes lose out to service providers that are not getting the same scores. It is important that some regard is paid to the reports that come from the new body. If there were a duty to do that, it would be very helpful. I am not sure whether that can be achieved by simply issuing guidance, because people can take or leave guidance. It would be helpful if the bill placed such a duty on local authorities or any public body that was commissioning services registered with the new body.

The Convener: I remind the committee that, as your submission says, those matters are already the subject of an on-going inquiry by the Local Government and Communities Committee, so I will get the clerks to tell us when it is likely to report.

10:45

Dr Richard Simpson (Mid Scotland and Fife) (Lab): I, too, found the submissions interesting and helpful. The discussion this morning has defined some of the problems in the bill about equity across the sector. My question comes at the issue from a slightly different direction. Would the new arrangements have identified and led to the solution of some of the problems, particularly in home care, which is the biggest area in which the quality of care still needs to be raised?

A huge amount of work has been done in the past five years, since the care commission was established, with regard to the residential providers. However, the home care side is still rather weak. The "Panorama" programme to which David Manion referred indicates that there is a series of problems with the commissioning process and the individual's perception of the care that they receive. Lack of continuity is the biggest difficulty that was raised. As it stands, will the bill deliver for the individual user and for the system by addressing problems of the sort that have been mentioned?

The Convener: Some people are finding that the hours of care that they receive in their home are being greatly reduced. They usually turn to MSPs to try to find out why that has happened.

Dr Simpson: You have reminded me that I was going to ask a supplementary question, convener. The Audit Scotland reports have indicated a profound shift towards addressing the more serious and complex individual needs. Although I understand that, given the cost restraints that everybody is experiencing, and will experience, the failure to provide early care and support to the user and their carers is extremely damaging and it will lead to those people deteriorating much more rapidly. Will the new systems that we are devising contribute to a substantial improvement that might tackle those problems?

Ranald Mair: Not necessarily. If the new body simply undertakes its activity in separate compartments, as happens now, and does not conduct fully integrated examinations of service delivery, it will not necessarily identify the logjams or the bits that do not work in the system. Rather than having inspections of care homes on the one hand and inspections of local authority services on the other, we have an opportunity to look at the experience of service users and highlight all the

issues that might impact on the delivery of care. We should take that bold step and say that there will be a markedly different style and scope of regulation through the new body and that it will not merely house two distinct functions but reconfigure regulation, which is what is needed. If that happens, the new body will identify the issues.

There is a difficulty with resource allocation because no regulatory body is going to have control over the allocation of moneys within the public sector. In trying to drive up standards, the care commission or SWIA might want to see money spent on certain sorts of care delivery, but they have the power only to raise general concerns. Another issue is how we connect the resource allocation to service delivery. In some instances, we as a society get the services that we are prepared to pay for.

Jacquie Roberts: I will answer Richard Simpson's question from the point of view of the care commission team managers. There are 40 team managers, who are universally in favour of the proposed arrangement, because they believe strongly that, if they worked in a body that had authority over local authorities' commissioning and contracting arrangements, they could have taken earlier action in some recent cases of poor service delivery, particularly in care-at-home services. It is quite helpful to hear from the front-line managers.

Nigel Henderson: My answer to Richard Simpson's question is a qualified yes. As the bill stands, I do not think that it would contribute to substantial improvement. If there were a levelling of the playing field and equality of opportunity to look at the whole care pathway and if there were particular powers in relation to that, it might do so.

The other point to make is that the duty to co-operate with other bodies will be important. We know that there is a lot of duplication in the health service, with spending resource for things such as assessment being duplicated. Perhaps by having the health care improvement body and the social care scrutiny body undertake joint inspections we might drive improvement, make savings and redirect resources to the front line.

There are huge opportunities in the bill to establish a system for scrutinising the services holistically. At the moment, only bits are inspected and they are not necessarily brought together.

David Manion: The issue is partly one of culture in the new organisation that will be created. The bill is not about a merger—the putting together of two things to save a bit of public funding. It has "Public Services Reform" in its title. It is about creating something new and different that has different values, style and leadership, which will address the issues that you have raised. I regret using the expression "level playing field", which

everyone now seems to be attached to, because it is not a level playing field that is being sought. Local authorities are public bodies that are highly regulated and have elected members; community care providers are not. The mechanisms that one would choose for the regulation of community care providers will be different from those that one would choose for the commissioners of social services.

I agree that the issue of enforcement powers may be a red herring. Nigel Henderson has spoken of a system for scrutinising the services holistically. It is important that the bill does not miss out the critical areas of how the services are commissioned and how social services are inspected. That must be part of the bill. It is remarkable that one local authority could go through the process—as was shown in the “Panorama” programme—without phoning up a neighbouring local authority to find out something about the providers of the care. That must be happening throughout Scotland at the moment. The duty to co-operate, share information and set standards needs to run thematically all the way through the bill. We speak on behalf of service users, and that is what service users would want to see.

David Cumming: I would answer with a qualified yes. The reason for some optimism on my part is that, over the past few years, we have had some good examples of co-operative activity. In our written submission, we give the example of the multi-agency inspections. Those were inspections of adult care, without legislation equivalent to that which currently obtains for child protection inspections. It is not as straightforward as having all the different co-operative activities enshrined in statute—we have had to devise new approaches and methodologies.

It is a matter of trying to keep a focus on the mythical shift in the balance of care. In older people's services, for example, we know the demographic trends and we are all alert to the responsibilities that we have nationally to ensure that they receive good-quality care. The effect of the multi-agency inspections, which took place without a legislative basis, was that we began to touch on those areas in which, in order to shift the balance of care—in order to reduce the number of bed days or to improve the timescales for the discharge of patients from hospitals—there had to be good and supportive community-based services.

It is not always about the rhetoric. When the numbers of one authority are compared to the numbers of another and one set of partnerships is compared to another—which is what we have done—opportunities emerge to see how councils and their community planning partners need to

move to improve those services. That is a high-level objective and it might be far from the experience of someone who is receiving a service today. However, when members of our families require care, we all experience what the system is like as a carer. It is therefore important that that becomes a meaningful, long-term aspiration. The legislation may well support that—I hope that it will—but there are issues of culture shift that it will be important to address in order to ensure that we are moving things on in the right direction.

Dr Simpson: I am getting the impression that people feel that the legislation is a necessary but not conclusive part of the process. If it is seen to be necessary, that is an important statement for the committee to hear. The joint inspection process that has developed in the past decade has been hugely beneficial and enormously influential. However, is that evolving process, which is bringing together different groups that have slightly different cultures, working so well that the benefits of the legislation might not be as great as they otherwise would be? Throwing organisations in the air—which we know from the reorganisations of the health service can lead to a two-year interregnum on any development, because all the top officials have to apply for new jobs—is hugely disruptive. Will the gains that we make in the long term be worth the disruption?

I take your point—I am disappointed in the policy memorandum, which goes on and on about costs. Costs are irrelevant here—not totally, but almost. What is important is whether we deliver better care and can reduce regulation and have a lighter touch without ending up with disastrous scandals occurring.

I am sorry, there was not really a question in there.

The Convener: No, there was not. I listened to 90 per cent of it—

Dr Simpson: The question that I was going to ask—

The Convener: Ah. You cannot teach an old dog new tricks.

Dr Simpson: When the Regulation of Care (Scotland) Bill was being considered by Parliament, I got into considerable trouble with my party because I lodged an amendment that the minister did not like. I was concerned that the care providers—the care homes, as they were mainly at that point—were going to be required by the care commission to make improvements but the local authorities that purchased their services were not going to be required to make any changes to their pricing to allow those improvements to be made. I said that the care commission should have a role in requiring the local authorities to take

account of its reports in their commissioning practices.

Will the new bill deal with that issue in relation to not only care home provision but community care provision? That is the area in which scandals have been emerging, although they have not fully emerged yet.

Nigel Henderson: As it stands, I do not think that the bill achieves that, but I think that, with some alterations, it could be used to achieve that.

Ian McKee (Lothians) (SNP): My question will be a little easier to answer. It comes in two parts.

I had always been under the impression that under European legislation the terms and conditions of people who move from a national agency into the new body would be protected, and that the new people who were appointed to the body would be subject to the body's terms and conditions, which might make the situation less worrying to staff. Is that the case?

I will let David Cumming answer that question before I ask my second.

David Cumming: We have not sought to overplay the issue. We have, rather, sought to participate in the embodiment of the new undertaking. However, the issue is significant. I am not a human resources professional, but I believe that the issue of people leaving the civil service is a genuine one.

As we said in our submission, there will be an impact on staff. One of the other changes might involve the extent to which it is, within a new non-departmental public body, possible to provide the same degree of policy information. As I understand it, Government intends to create a post of chief social work adviser, which would be the equivalent of the chief medical officer or the chief nursing officer. That change from an executive agency probably raises a number of issues around the quality of policy and the information that Government might receive, based on the direct experience of services across the country. I can speak about that only from the social work perspective, but I think that there are some real issues that need to be considered.

We are addressing the staffing issues. We hope that there might be ways, including under European legislation, to reassure staff that their investment and loyalty to the Scottish Government and preceding Administrations will not be overlooked. Some people might feel that they are being transferred to a new organisation in which they might not benefit from the pension entitlements that they have built up over a number of years.

11:00

The Convener: I am sure that the Finance Committee will look into issues of security and continuity of employment.

David Cumming: As I said, we are not trying to overplay the issue, but it is a real concern that cannot be ignored.

The Convener: Of course not. That would be bad for morale even if the issue arises from a misconception. We appreciate that.

Ian McKee: Let me turn to a more general issue. Part of the purpose of the bill is to improve what has been described as the scrutiny landscape. I do not know whether that is the same as providing a level playing field—our terms are becoming a bit geographical. The Crerar review, which I think people are working to, recommends that

"Where scrutiny is needed, if there is more than one existing organisation, only one should be asked to do the work".

Given that scrutiny will be performed not only by the new agency but by Her Majesty's Inspectorate of Education, which will remain an executive agency rather than an NDPB, might there be cultural differences between the two organisations? Furthermore, as Jacquie Roberts highlighted, some providers will be subject to scrutiny by local authority social work departments as well as by the new body. She suggested that the new body might, where local authority scrutiny is satisfactory or very good, engage in lower-level scrutiny. My experience of life is that people tend to take a belt-and-braces approach in such matters in order to avoid trouble later.

Does the bill take us towards Crerar's recommendations? Will we still have the problem that several agencies do the same thing? Should there be a more formal structure or agreement to ensure that scrutiny is carried out only by one body? We do not seem to be getting towards the simplicity that we are aiming for. Do the witnesses have any comments on that?

The Convener: Perhaps Mr Cumming should answer that. Is your question directed to a particular person?

Ian McKee: I would be interested to hear from Jacquie Roberts, given that she raised the issue.

The Convener: We will hear from Ms Roberts, then from Mr Cumming.

Jacquie Roberts: The problem in respect of local authority scrutiny is that the care commission still experiences registered care services that we visit for inspection having been inspected by the local authority two or three weeks beforehand. We believe that to be unnecessary and we are

working hard with the Convention of Scottish Local Authorities and local authorities to prevent that. The incidence of its happening is patchy, but such things still happen. The bill might help matters, particularly when our grading system becomes more embedded, such that local authorities find it useful in informing their commissioning and contracting practice.

On the issue of the different bodies, I think that it is more important to think about functions rather than bodies. The duty of co-operation provides the opportunity to be much clearer about whose job it is to do what, so it does not really matter which body carries out the function. With the duty of co-operation, we will all be required to get together to use the necessary expertise to undertake the scrutiny tasks that we have been given. It has not been a problem for the care commission to work jointly with HMIE on integrated inspections of early years services, which we inspect together. That sort of practice should and could continue because—let us face it—health and care are now closely integrated. It should be possible for the new social care and social work improvement Scotland to work jointly and in an integrated way with the Mental Welfare Commission, with the new healthcare improvement Scotland and with HMIE. However, I think that we could be clearer for members of the public which functions predominantly belong to each of those three bodies. That would make more sense.

David Cumming: There have been considerable efforts over the past year to improve scrutiny co-ordination. That has been led by the work of Audit Scotland, following some of the Crerar recommendations. Both at individual agency level and collectively there have been considerable moves towards demonstrating better coherence. That is evidenced in different ways. Jacquie Roberts has spoken about work that has been done on commonality. On SWIA inspections, we have taken cognisance of other issues such as fostering and adoption inspections, which the care commission would be involved in. Our staff have also been involved over the past year or so in the review by NHS Quality Improvement Scotland of learning disability services. In addition, we are involved in work with Her Majesty's inspectorate of constabulary for Scotland and HM inspectorate of prisons for Scotland.

We recognise that there is sometimes an overlap, but it is important to avoid any duplication. The co-ordination on the local authority side, through Audit Scotland's work over the past year, has gone some way towards that. Colleagues in COSLA might have a different take, however, and it is important to recognise the impacts on providers of services. Some genuine moves are already being made in advance of future legislation.

Nigel Henderson: One of the aims is to reduce the burden. As Jacquie Roberts has already indicated, we are aware that some local authorities carry out their own inspections and that they duplicate some work.

There are other opportunities to streamline things. There will be overlaps with other areas, but the proposed new social care body will cover the vast majority of social care services. Some services will need to be addressed, such as care services in prisons and in other places, but the vast majority of care services will be covered by the single body.

There are issues around the duty of local authorities to co-operate—we think that they should be added to the list of bodies in schedule 14. Local authorities could use the opportunity to take more notice and to co-operate with the reports that come from the new body.

We wonder whether there might also be an opportunity for the new body to register service providers, not just services. At the moment, individual services are registered. In the retendering process, we spent a lot of time filling out pre-qualifying questionnaires for 32 local authorities—with questions being asked in different ways—regarding our credentials as an organisation, our financial set-up, who governs us and so on. That could be done by the new body, which would then register bodies as bona fide organisations. That would cut out some of the pre-qualifying work, if a duty to co-operate was placed on local authorities.

The Convener: That was very helpful.

Ranald Mair: Some pilot work is going on between care homes, local authorities and the care commission in different parts of Scotland on sharing of information and reducing unnecessary duplication. We are trying actively to improve that.

One of the dilemmas for local authorities, as I understand it, is their duty of care. If a council makes arrangements for somebody's care or purchases care on somebody's behalf, what is the responsibility of the local authority if that person has a bad experience? Is it sufficient for them to have had regard to the regulator's reports, or do they have to have satisfied themselves about the quality of care? The bill does not sufficiently address the elements of scrutiny that the local authority is involved in, and I would like that to be the subject of further discussion.

In the Scottish Care submission, we highlight the overlap with the new health improvement body. Given that care of older people will include higher levels of health care—referring to management of long-term conditions, palliative care and so on—we need to be sure that regulation and scrutiny take account of the health aspects of those

services, even though they will be registered with social care and social work improvement Scotland. Significant elements of joint inspection from the health side will probably be necessary as we move forward over the next years.

The Convener: Four members want to come back in, so I ask for efficiency in asking questions. If members are content, we will ask all four questions and the witnesses will then answer them. I will do a round-up to allow the witnesses to say anything that we have not asked them.

Mary Scanlon: My question is about better scrutiny. I have been listening carefully and waiting for a wave of enthusiasm that things will be much better, but it seems to have been tempered with a most cautious optimism.

When my granddaughter went into a nursery in Inverness, we looked up previous care commission reports over five or six years and found that recommendations that had been made six years previously had still not been implemented. I would like to think that the bill will reassure parents or grandparents who put children into a nursery that services will be monitored and will be better.

My final point is for Community Care Providers Scotland. Page 3 of its submission says that

“many of the complaints”

that the care commission

“receives are not about the quality of care services”

but are actually about

“the amount of ... care”.

All of us round the table will have concerns about that.

The submission also says that the Government claims that the bill is “cohesive”, but Community Care Providers Scotland thinks that it is

“a source of considerable confusion”

because of

“the power to handle complaints about some of those services, but not about others”

and that it

“brings together separate functions ... but does not integrate them.”

I am struggling. I want to be enthusiastic; I want to be convinced that the bill is an improvement and will reassure families and service users but, to be honest, I have not heard that yet.

The Convener: Is your concern about better scrutiny connected to the fact that, when recommendations are made, they are not implemented? I think that that was a key part of your question.

Mary Scanlon: That is right. My concern is about enforcement and monitoring.

The Convener: The other point is what the impact will be on the amount of community care that is given in home care.

Mary Scanlon: It was about assessment. It is on page 3 of the submission.

Ross Finnie: The matter is raised in other submissions, in particular from Age Concern and Help the Aged. At the top of page 3, they raise concerns about conflicts of interest. Although they support the principles of the bill, they appear to have serious concerns about part 4, from section 41 onwards and about part 5, from section 90 onwards. I would be grateful if any or all of the witnesses would elaborate on that so that we are clear about the extent and nature of those concerns.

Helen Eadie: My question was the same as Ross Finnie’s but with an addition about delineation among the care services. The Age Concern and Help the Aged in Scotland submission says:

“Age Concern and Help the Aged in Scotland are concerned that Scottish Ministers are able to set a timetable for social work services, no such power is outlined for care services. Care services need to be inspected on a regular basis”,

but no timetable for inspections has been proposed and it

“should not be left to the discretion of the SCSWIS.”

That is about the same conflict of interest.

I also have a question about HIS, which is addressed at the bottom of that page.

The Convener: We are coming to that. It will be the last little bit.

Michael Matheson: My question is in similar vein. It concerns the submission from Mr Manion’s organisation on section 40 and the ability of ministers to delegate the preparation and publication of standards and outcomes. His organisation has some concerns about a potential conflict of interest on that and refers to concerns about section 41. I ask him to expand on those concerns and how they could be addressed.

The Convener: Right. I ask the witnesses to tell me which question they are answering. Mr Mair can answer first while Mr Manion gathers himself—quite a lot was addressed to his submission.

11:15

Ranald Mair: I am keen to give Ms Scanlon some enthusiasm for the bill.

The Convener: She is quite an enthusiastic person, normally.

Ranald Mair: We have focused on some of what we think are shortcomings in the bill, but it is important to return to the fact that all our submissions welcome the proposal for the new body, which we think is a necessary step in improving scrutiny. However, it is not in itself a sufficient answer to all the issues. As Mr Manion said, the culture of the new body and how it develops and proceeds with its task once it is in place will be hugely important. We cannot solve all the problems in a bill that leads to the creation of a new body.

We have spent a lot of time discussing enforcement, but we have not spent a lot of time talking about service improvement. Both new bodies have the word “improvement” in their title. We must give more thought to what we mean by improvement. Enforcement, in and of itself, is not improvement. In some cases, it might be a necessary spur to improvement, but we need to put resource and thought into supporting the development of services so that there is a clear focus on improvement as well as the enforcement of minimum standards. The bill and the new body are welcome as platforms for advancing some of the ideas that we have discussed.

David Cumming: I hope the fact that improvements have followed scrutiny gives Mary Scanlon the reassurance that she needs. I do not think that improvements would have been made without external scrutiny. It is important to understand that we sometimes confuse improvement and scrutiny and treat them as an either/or, but they must be inextricably linked. Our experience of inspection and of the follow-up arrangements that councils and their partners have put in place offers good evidence that scrutiny has led to improvement.

I want to pick up on the point about timescales.

The Convener: Please do. You can deal with all the questions together.

David Cumming: It is correct that timescales should not be determined by the new body and should be dealt with in secondary legislation. It is important that sufficient flexibility is built into the relevant statutory instrument, so that we do not have to rely only on the existing arrangements, which, as Dr Simpson said, were set out under the Regulation of Care (Scotland) Act 2001. Jackie Roberts might want to comment on that in much more detail.

The Convener: Mr Henderson wants to come in first.

Nigel Henderson: Just to enthuse—

The Convener: I must say to the panel that it is not mandatory to do so; Mary Scanlon will get through the rest of the day without your enthusiasm.

Nigel Henderson: It is a group hug of enthusiasm.

We are taking the opportunity to sharpen what appears, from reading the bill, to amount to an amalgamation or merger of two bodies. We think that the bill has the potential to be more than that. Some of that will be about the business model that is incorporated, but the bill gives us an opportunity to sharpen what is proposed. That is the point that we have been trying to make; it is not that we are coming at the bill from a negative point of view.

The Convener: I think that you are saying that it is not just a paper exercise of amalgamation. You are looking for real integration of services and through-flow.

Nigel Henderson: When the 2001 act was passed, some opportunities were missed that can now be taken to create a scrutiny process that looks at the whole journey that a person goes through, not just at the service-delivery end.

The Convener: We also need to make the system understandable for the people who use the services—young people, elderly people and vulnerable families. In his submission, Mr Manion made an important point about people’s lack of understanding.

David Manion: I will not move on to the issue of names just yet, but it is one that needs to be addressed.

The Convener: You did not give us an alternative.

David Manion: I have two: social services inspectorate Scotland or social services improvement Scotland. They are better than the current six-letter title, which is unpronounceable.

The Convener: We think that they are quite long, too. They are not zingy.

David Manion: The words “business model” were used. That was interesting for someone who has just led a merger process. That the committee has focused on issues of principle rather than issues of detail has been helpful. The issue is the model of scrutiny that we want to adopt and ensuring consistency in that model, whether for social care, health or whatever.

On issues of principle, I think that Ross Finnie spoke about the preparation and publication of standards and outcomes. I do not have a problem with the delegation of the preparation and publication of standards and outcomes to the new body, but the setting of standards must rest with ministers and elected members—somewhere

along the line, they must agree what the standards are. Again, that is an issue of principle and governance. If that did not happen, people would simply set standards to a level that they knew and which would be expected, and ambitions would be tailored to reaching something less than could be hoped for.

That takes us back to a business model and consistency of scrutiny. I am sure that everyone agrees that the timetable issue must be addressed. Service users could then see when things were to come up, and everybody would be clear about where a process was at any given time. As we have said, anomalies will arise and there will be confusion in users' minds if there are two different improvement notice systems.

We have pushed those things in the background because we see them as points of principle and governance. I presume that how they will be dealt with will be considered at stage 2.

Jacquie Roberts: The care commission, which includes a large majority of the staff who will be affected by the bill, agrees with the proposals as long as we get added value, functions are better integrated, we continue to provide safeguards, especially for adults and children who do not have a strong voice, and the body remains independent. We think that the proposals are necessary and are a good thing, but we would also like Scottish Government officials to propose how they will evaluate the benefits of the new arrangements. It is important to have a new system in which the amount of care that is commissioned for a very vulnerable older person in care at home, for example, can be considered.

I think that Ms Scanlon will find that, now that we give grades, there is more impetus to service providers to follow up recommendations. It is not compulsory to follow up recommendations, but you can bet that people will do so if they know that they will get a better grade for a part of the service. It is compulsory to meet requirements, and we routinely follow up whether requirements have been met.

The Convener: When did you introduce grades?

Jacquie Roberts: In 2008-09, which was the previous inspection year. We used the same scales that Her Majesty's Inspectorate of Education and the Social Work Inspection Agency used. We are working hard to use a shared language and methodology across the scrutiny bodies.

The Convener: Do the witnesses want to bring anything else to our attention that no member has asked about? I realise that you have now enthused Ms Scanlon—thank you for that. Is there

anything that we have not asked about that we should have?

Nigel Henderson: I echo the point that was made about the name of the new body. I do not have a proposal for a name, but the proposed name is cumbersome. The care commission has a good name and brand, and the public understand what it is. I do not think that the public will understand what SCSWIS is, however one might want to pronounce that.

I also have an issue with the name healthcare improvement Scotland. I wear another hat: I am involved with NHS Health Scotland, which is the health improvement body for Scotland. In the wider landscape, it would be confusing for the public to have a body called healthcare improvement Scotland. The health improvement and reducing health inequalities agenda is totally different from inspecting health services.

My final point is on fees. During the passage of the Regulation of Care (Scotland) Act 2001, we tried to point out what we regard as the circuitous route by which the care commission receives its funding, or part of its funding. We ask again for the system of fees for service providers to be looked at and, ideally, scrapped because we regard it as a waste of money. The money goes from Government to local authorities, then to care providers and then to the care commission, and there is a transaction cost at every point. The new body should simply be centrally funded.

The Convener: Is that everything? I am looking at Mr Cumming, who looks as if he wants to say something.

David Cumming: We have primarily been involved in local authority scrutiny, but increasingly, as we have discussed today, the individual's experience is not just about one body, be it a commissioned service or a local authority service. I know that the committee will take further evidence on part 5 of the bill next week, and the interface between health care and social care is vital. It is important that, irrespective of the status of organisations, scrutiny is seen to be of equal importance and is applied to each service, because they have a strong bearing on what happens for the individual. We are all committed to improving that.

Jacquie Roberts: Convener, are you expecting us to make the points that we wish to make about healthcare improvement Scotland now?

The Convener: Yes. This is the round-up. We have four more minutes to cover anything that we have not dealt with.

Jacquie Roberts: From the care commission's point of view, the creation of healthcare improvement Scotland is an important aspect

because we will lose some functions in relation to the regulation of independent health care services. That makes sense, because the same clinical and care standards will apply in the NHS and independent services. We would like the same principles and user focus to underpin HIS and SCSWIS. If you look at the detail of the bill, you will see that the principles are slightly different—the principles of diversity and independence are not there for healthcare improvement Scotland. It is also vital that reports about the quality of services are available to members of the public. That applies to independent health care services as well as NHS services.

We believe that the duty of co-operation is essential, given the integration of health and care services and the need to share expertise. That will be important for the new body, which should perhaps be called care improvement Scotland. We called ourselves the care commission after we were set up as the Scottish Commission for the Regulation of Care, so maybe the name could be left to the new body. In any case, it is vital that it has access to health expertise because so much care depends on an excellent understanding of health provision as well.

In general, the quality of independent health care services, responsibility for which will move to healthcare improvement Scotland, is very good. However, enforcement has been needed—three private hospitals have had enforcement notices—and regulation needs to continue. It will be up to healthcare improvement Scotland to determine how it will report on NHS services and enforce improvements, but it is vital that the scrutiny of health care is independent from service provision.

My final point is that the care commission has been able to demonstrate that it is possible to include the function of driving up improvement in the task of regulation and scrutiny.

The Convener: Next week, we will take evidence from NHS Quality Improvement Scotland, the Scottish health council, the Scottish Independent Hospital Association, the Scottish Patients Association, NHS Greater Glasgow and Clyde and NHS Forth Valley, and then the Mental Welfare Commission for Scotland. We will be able to put the issue of further integration to them.

Thank you for your evidence. It augurs well for integration, because you were very integrated today.

Agenda item 2 is consideration of a revised draft of our stage 1 report on the Tobacco and Primary Medical Services (Scotland) Bill. As previously agreed, we will take that in private.

11:29

Meeting continued in private until 12:10.

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