



OFFICIAL REPORT
AITHISG OIFIGEIL

Health, Social Care and Sport Committee

Tuesday 15 November 2022

Session 6



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HEALTH, SOCIAL CARE AND SPORT COMMITTEE
32nd Meeting 2022, Session 6

CONVENER

*Gillian Martin (Aberdeenshire East) (SNP)

DEPUTY CONVENER

*Paul O’Kane (West Scotland) (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:

Mary Alexander (Unite)

Maree Allison (Scottish Social Services Council)

Alison Bavidge (Scottish Association of Social Work)

Tracey Dalling (Unison)

James Dornan (Glasgow Cathcart) (SNP) (Committee Substitute)

Roz Foyer (Scottish Trades Union Congress)

Kay McVeigh (Society of Personnel and Development Scotland)

Colin Poolman (Royal College of Nursing)

Cara Stevenson (GMB)

Sharon Wiener-Ogilvie (Allied Health Professions Federation)

CLERK TO THE COMMITTEE

Alex Bruce

LOCATION

The Sir Alexander Fleming Room (CR3)

Scottish Parliament
Health, Social Care and Sport
Committee

Tuesday 15 November 2022

[The Convener opened the meeting at 09:00]

Decision on Taking Business in
Private

The Convener (Gillian Martin): Welcome to the 32nd meeting in 2022 of the Health, Social Care and Sport Committee. I have received apologies from David Torrance, and James Dornan is joining us online as his substitute.

Agenda item 1 is a decision on whether to take item 3 in private today. Do members agree to take item 3 in private?

Members indicated agreement.

National Care Service (Scotland)
Bill: Stage 1

09:00

The Convener: The next agenda item is further consideration of the National Care Service (Scotland) Bill, with two evidence sessions. Both panels will focus on the bill as it relates to the workforce, employment, training and development and contractual arrangements. The first panel is comprised of representatives from several professional bodies and regulators representing sections of the health, social care and social work workforce.

I welcome those who are attending in person. We have Maree Allison, acting chief executive, Scottish Social Services Council; Alison Bavidge, national director, Scottish Association of Social Work; Kay McVeigh, head of personnel services, South Lanarkshire Council, and Society of Personnel and Development Scotland portfolio lead for workforce planning; and Colin Poolman, director, Royal College of Nursing for Scotland. Joining us online, we have Sharon Wiener-Ogilvie, deputy chair, Allied Health Professions Federation Scotland.

Good morning to you all and welcome. I will go around all of you initially to get your views. My colleagues will probably direct their questions to a specific person, but if you have something to add and want to chime in, just catch my eye and I will come to you. It would be lovely to think that we could go round the whole panel with every question, but we would run out of time very quickly if we did that. Sharon, as you are online, you can use the chat box to let me know when you want to come in.

I will ask you all about the co-design idea and process. As we have been scrutinising this bill and speaking to various stakeholders, we have been finding that there are questions about the idea of having a framework bill that sets out that there will be a national care service, with some quite high-level things to be put in statute about that. However, the co-design process will happen after that and inform secondary legislation, which is quite different from how legislation normally works. I suppose that the nearest example would be the Social Security (Scotland) Bill. There is an expectation that a lot of the detail will be created through that process of collaboration and co-design. Do you support that approach or do you have any concerns about it?

Maree Allison (Scottish Social Services Council): For the SSSC, as the professional regulator of the social work, social care and early years workforce, it is currently not exactly clear

from the bill how professional regulation of the existing workforce would be affected.

However, the Scottish Government has established an independent review of social care support services, looking specifically at inspection, scrutiny and regulation. That review has started and there is a lot of engagement and going out to speak to people to understand their perspectives on what is good and what may not be so good about regulation at the moment. That process of focusing on how regulation keeps up with the evolving landscape and changes in the workforce and how it will fit in with the NCS is happening in quite a specific way for professional regulation and it is due to report next June. That review is carrying out quite extensive work with stakeholders.

The Convener: Therefore, in effect, that co-design has already started. Legislators such as the members of this committee are looking at the framework bill, but a lot of that co-design is well under way.

Maree Allison: Yes, that is right. Our expectation is that the review will make its recommendations next summer and, on the back of those recommendations, the Scottish Government will decide what to do.

The Convener: That is very helpful. Thank you.

Alison Bavidge (Scottish Association of Social Work): The first thing that our members would say is that they are really keen to see change. We needed to see change and we are keen to be involved in that change. In principle, the commitment to co-design is a very good thing. However, there is some ambivalence, and our members say that they cannot whole-heartedly support the bill at the moment, because they cannot see the detail that will affect their work or how affected they will be. For example, schedule 3 to the National Care Service (Scotland) Bill sets out all the legislation that is likely to be amended, removed or changed, most of which is about the underpinning duties and powers of social work. Co-design is definitely where we want to be, and we want to be involved in it but, at the moment, we cannot really see the detail—for example, where the general duty of welfare might be.

We are keen to see a more national approach to improvement, implementation and the experiences of people being able to move their support across local authority boundaries—all of that is really good. One of the things that we are finding across the co-design arena is that social work is not well understood as a profession, and that social work, as it is practised now, is not the holistic relationship-based profession that people choose to go into. Later today, we might get on to some of the impact that that has on the workforce. There is

an issue around what real co-design looks like, because it requires people to have a full understanding and commitment to all the elements and workforces within it.

The Convener: Therefore, your participation in that co-design process is vital.

Alison Bavidge: It is vital, but there is a lot of work to be done. The programme is large, and we need to ensure that the nature of social work—not just the statutory protection work but the early support, intervention and support for families and community strengthening—is understood and built into the service, so that we have a stronger social net in Scotland.

Kay McVeigh (Society of Personnel and Development Scotland): It is important that all the moving parts are involved in the co-design and that they have the time and space for that. At this time, the workforce element is struggling for the resource to get involved in co-design. We all know the recruitment and retention difficulties that there are in social care, so those people might not be involved in the co-design process. Everybody wants to create improvement but, in order to do so, people need space to think and imagine what the future might look like. However, at this time, generally, across the piece, the reaction of the workforce to the bill has been that the lack of detail gives them concern, as Alison Bavidge was talking about. Inevitably, change can be concerning for people, and you want to involve them in the conversation, so that they feel confident about their place in the future. Because there is a lack of detail, there are certainly a lot of questions from the workforce and, because those questions are not being answered, they feel a little negative towards the proposal.

The Convener: However, is it recognised that it is hoped that the service will be built from the ground up rather than from the top down? That is why the legislation is being done in the way that it is.

Kay McVeigh: For a grass-roots-up approach, you want to take the workforce with you but, just now, they do not feel that that is happening in practice.

Colin Poolman (Royal College of Nursing): My answer will be much the same. The issue is that we do not know what “co-design” will mean in practice; it is quite vague. That is a difficulty for the workforce, which is under huge pressures, as you all know, so we question whether this is the right time for the bill.

It is hugely important that we get consensus on how we develop a national care service, because the bill will lead to a significant change to the whole health and social care journey across Scotland. Our members are concerned about the

lack of detail. They do not feel that there is as much transparency as there should be in the development of the service. We need to explore that further.

People need to be reassured about what “co-design” means. It must include everybody who receives the services as well as everybody who provides them. That is the key thing for us.

The Convener: Were any of you involved in the national care service forum in Perth the other month? Did you and your members have a presence at the first of those forums?

Colin Poolman: Yes, the Royal College of Nursing was represented at that forum. However, I still think that it is too early and that there is a lack of clarity about how things will go forward, which is really concerning people. To be quite blunt, members of the workforce are dealing with a crisis at the moment, so it is difficult to start thinking about a national care service.

The Convener: Was it the forum that was too early? What is too early?

Colin Poolman: I am talking about the way in which the bill will be developed. It is new for everybody, and there is real anxiety about what will be provided in the future.

The Convener: Okay. I will bring in Sharon Wiener-Ogilvie, who joins us online.

Sharon Wiener-Ogilvie (Allied Health Professions Federation): Hello. I am representing the Allied Health Professions Federation. As you know, the federation represents multiple professions—I am representing 12 professions, including physiotherapists, occupational therapists, dieticians and podiatrists. Although the professions are very different, we have a similar focus, which is very much on early intervention, providing support for people at home and providing support for self-management and rehabilitation, thereby reducing dependence on the health and care system.

Our main concern about the bill relates to the detail, as some of my colleagues have already highlighted. There is a strong emphasis on care, and we are concerned that, unless allied health professionals are involved in the leadership of national care boards, the focus on rehabilitation and enablement will be lost, because we will be focused only on care provision. We face an unprecedented time in the health and care service, and unless we maintain that focus on rehabilitation and prevention, we will never resolve the issues relating to high demand.

AHPs have expertise in rehabilitation, prevention and self-management, so they need to be at the core of co-producing the approach. For

that to happen, we need to be at the table when it comes to national care boards, and we need to have voting rights. We cannot have the loose framework that came from the Public Bodies (Joint Working) (Scotland) Act 2014, because there was a lack of clarity in relation to integration joint boards and so on. We need the details to enable us to influence the agenda and to make the changes that are required.

Our second concern with the bill relates to the commission. I am getting into the details here, but—

The Convener: I will stop you there, because my colleagues will ask about the details. I was asking about the co-design process. You have made it clear that you feel that you should be actively involved in the co-design process, and you alluded to being involved in the formation of the care boards.

I will bring in my colleagues. There will be ample opportunity for witnesses to come back to those issues.

Paul O’Kane (West Scotland) (Lab): Good morning. I will direct my questions to Alison Bavidge and Colin Poolman because they are relevant to their submissions. In its submission, the SASW said:

“As it stands, this Bill is unlikely to deliver improved quality and consistency of social work services.”

In its submission, the RCN said:

“the Bill will not achieve”

its

“purpose without the Scottish Government first tackling the workforce crisis across health and social care”.

Given the answers to the convener’s question, does the process seem to be back to front? Should there have been more input into the framework legislation in order that things could have been put in the bill that could affect the issues that you spoke about in your submissions? Should we then have looked at how to go forward from there?

09:15

Alison Bavidge: Yes, there are several things that we would have liked to see on the face of the bill. One of the things that we need to bear in mind—and one of the things that make social workers nervous—is the amount of trust that we are being asked to put in the bill, which is fairly structural and very much a framework, before we move towards a situation where we can look at the quality and the consistency.

Sorry—could you repeat the question, Paul?

Paul O’Kane: Sure. I was just quoting back to you the concerns in your submission about delivering quality and consistency and asking whether you would rather have seen more detail in the bill. You mentioned putting things in the bill, but could you expand on what could have made a difference?

Alison Bavidge: Absolutely. The role of social work is not mentioned, nor is the importance of leadership roles, such as chief social work officers, to quality and consistency. We would also have liked a reference to a national social work agency in the bill. If we are talking about national quality and consistency, such an agency is particularly important in giving overarching support and direction for positive and effective implementation of policy rather than having lots of different approaches, which we have at the moment—we have 32 local authorities, which can all take a policy and implement it in their own ways.

However, we do not want to have a top-down approach. We understand the need for structures that enable quality and consistency to happen, but having the ability for local people and local governance to flex and be responsive is also very important.

Colin Poolman: The intentions behind the creation of the national care service are laudable, and I think that every single one of us would agree that we need to change. There are difficulties—there is a crisis. If you go forward with the legislation, we would like to see more on the face of the bill, as I alluded to. However, we need to recognise the join between health and social care and the current crisis—structural overhaul is not what is required at this point. What is required is that we start to deal with the current workforce crisis, because it does not matter how far we go forward with the bill if we do not have the right workforce in the future to be able to deliver the services that we want to deliver.

We believe that, if you spent a bit more time on looking at the current crisis and dealing with the difficulties that are involved in maintaining a sustainable workforce, you could probably be more ambitious as you go forward.

Alison Bavidge: In relation to social work in particular, we know that work is going on to look at whether justice social work and children and families social work should come in. That, of course, leaves the social work profession potentially feeling disjointed and not sure of the future direction of the profession. Potentially, it could bring very significant changes to how we work with communities and families, so that brings a very significant level of anxiety to the profession at the moment.

Paul O’Kane: Thanks for those responses. Alison, in your answer to the convener’s initial question, you spoke about there being a level of ambivalence towards the bill and about people’s concerns about leaving things to secondary legislation and the changes that will impact on existing legislation, particularly in the social work space. Are you concerned that leaving things to secondary legislation narrows the scrutiny in terms of what is debated in the Parliament, with everyone having their say—are you nervous about that?

Alison Bavidge: In terms of scrutiny, it is not being able to see the pieces as they are coming together that is proving difficult for people. The power to transfer staff is a huge power. There are very significant powers in the bill, which will be needed at some point if we are going to get to a much better-integrated health, social work and social care system. However, it is perfectly reasonable that people are concerned and anxious about the direction of travel, because we cannot see the detail yet.

Emma Harper (South Scotland) (SNP): I want to pick up on Paul O’Kane’s point. He said that there is ambivalence about the bill. What I see is flat-out negativity against it. Do you think that part of the issue is that people are used to seeing detail in legislation, but the bill is a framework bill, so what comes after will be bite-sized pieces of legislation that will be able to be scrutinised and interpreted, then agreed on or amended and then delivered? I am really interested in hearing what Alison Bavidge and perhaps Maree Allison, too, have to say about that.

The people on the ground are asking for the bill. I have just read something about an action group from Falkirk that basically said:

“The National Care Service will have equality, dignity and human rights at its heart. It will empower people to make the choices that are right for them.”

One of my constituents has had eight social workers in eight months. The bill aims to slim out some of the bureaucracy and to make it easier—to make it a choice—for the people on the ground to choose self-directed support or whatever they want. I am interested in that aspect. Perhaps people need to hear more about what a framework bill is and what comes after that.

I will go to Alison Bavidge first.

Alison Bavidge: There absolutely is something in that. Very many pieces of legislation impact on social work, and there is a cognitive difficulty in understanding how those bite-sized pieces will jigsaw together, because occasionally things rub up.

I completely understand the concern about somebody having eight social workers in eight

months. In a profession that has to really understand people, their individual situations, needs and preferences, their family, and their employment, hopes and aspirations in the community, that is absolutely not the place that we should be at. That illustrates perfectly the crisis that the health, social work and social care professions and the professions within them face.

I guess that it will be a matter of communicate, communicate, communicate. The fact that there are several things that are not included in the bill has made people feel that there is the risk of a top-down approach rather than a building-up approach, which is what I think everybody in this room hopes to see. There is a bit of dissonance between what is in the bill and what we are saying that we want to deliver.

As I said at the beginning, things absolutely have to change. We have to get to a point—I am speaking specifically for social work—at which we have professions that are sustainable. People need to be able to go into them and have a career in which they do not burn out and are able to support people and deliver our aims for things such as self-directed support and support for parents so that we can deliver the Promise effectively.

We want all of that. However, at the moment, the bill is not clear about how we will get from here to there, and there is the risk that, in transition, there will be a gap. We need to be working on some of that stuff right now.

The Convener: I will bring in Sharon Wiener-Ogilvie. We must then move on to a question from Sandesh Gulhane. We have to pick up the pace a little, colleagues. We have only an hour and a half.

Sharon Wiener-Ogilvie: From our perspective, we see the same issues. The lack of detail in terms of what is in and what is out is creating a lot of uncertainties among staff. Our work very much depends on the interface between acute care, primary care, community services and social care. The suggestion that the bill might lead to staff moving from the health service into the national care service is creating uncertainty, because there is no clarity on which staff members we are talking about, and there is the potential to create less effective working arrangements.

Would the national care service reduce bureaucracy and streamline things? I would absolutely welcome that, but it all depends on the implementation and, if we are still suffering significant workforce issues, just changing the structure will not deliver what you want to achieve. That is our main concern.

Sandesh Gulhane (Glasgow) (Con): We are used to seeing details in bills, because it is on issues of detail and delivery that a bill can fail. I do

not get into my car and drive without knowing my destination.

What exactly is the panel's understanding of what co-design is? Colin Poolman alluded to that. What about the people who are missing, such as people who have palliative care needs? Who feeds into the process, and at what level? How does the Scottish Government reach out? Who makes the decisions? How transparent is the final design? Will there be a board that makes the final decisions? Do all voices—for example, that of the Royal College of Nursing versus that of one person—hold equal sway?

I have asked a lot of questions, but my question is basically about what the witnesses understand by the co-design process and whether that is clear.

Colin Poolman: I think that I have been quite clear in saying that the problem is that we do not know; it is absolutely not clear how the co-design process will work. That has led to anxiety in the workforce. Everybody agrees that there needs to be change and we need to think about new and innovative ways of tackling the difficulties that we have, not just in social care, which we sometimes compartmentalise, but in the whole social care journey. Our hospitals are full at the moment because we do not have that joined-up journey, with the right staff in place.

We need much more clarity about how co-design will work. Everyone should have a voice at the table and should be able to contribute. That is important, but how those contributions will bring us to the end of the process is not clear. This is a new way of delivering legislation; we all need to be taken on the journey. That is why we need to be careful not to rush into things.

The Convener: I will move on to comparisons between the national health service and social care, because we have discussed co-design quite extensively.

Paul O'Kane: In the process leading up to the bill's introduction and in our scrutiny thus far, there has been a lot of discussion about the importance of parity of esteem between the NHS and social care. Is there sufficient clarity about what that might look like? The question is perhaps for Alison Bavidge and Colin Poolman, but Sharon Wiener-Ogilvie might want to contribute, as well—I am sure that all the panellists will be keen to answer.

Alison Bavidge: Parity of esteem is an interesting one because, although the phrase is easy to say, it is a bit trickier to say what we mean by it. For social workers—my constituency—parity of esteem means their being able to work as autonomous professionals whose judgments are viewed as sound and whose assessments are taken with the seriousness with which they should

be taken, and without there being a constant battle for budget for each piece of support that someone might need.

Parity of esteem means our being round the table with our colleagues in health and social care and the third sector, so that we can deliver smooth transitions between life stages and services. It means, for example, people having terms and conditions that are in some way equitable. At the moment, integration joint boards have at least two sets of terms and conditions, of course.

Some of you will know that car mileage is a project for us. If a person is employed by the NHS, they get 61p per mile, but somebody who is employed by the local authority, who might sit next to me, gets 45p per mile.

There are a lot of levels to parity. Social workers train for four years, and many have masters degrees and PhDs, for example. It takes time to train to be a social worker, and we would like that to be properly recognised.

09:30

Colin Poolman: With regard to nursing in particular, when we consider the bill, we can see that the contribution of nursing in social care is not as recognised as it should be. Care is changing, and we need to focus on and develop the delivery of more complex care in homely situations—in people's homes or in care homes. Nursing has a unique contribution to make to that. We need to ensure that, just as every profession wants to have a voice, nursing has a key voice going forward, whether that is on care boards or anywhere else.

The issue of parity of esteem is hugely important when it comes to not only the voice at the governance tables but recognition of people in the workforce, wherever they work. Clearly, you would not expect me to not mention the issue of fair work. Pay and terms and conditions are key issues across health and social care, and those issues are part of the crisis. You are all aware of where we are in relation to the health service. Social care pay in the health service is, frankly, upsetting, when we consider what some colleagues are paid in other roles. It is no surprise that we have a crisis in the social care workforce as well as in the health workforce.

Maree Allison: I defer to Alison Bavidge and Colin Poolman on parity around, for example, terms and conditions. However, there is also regulation to consider. The social care workforce is more fully regulated than the healthcare workforce. Support workers in social care are regulated, which brings protection for service users and drives up the qualification levels of the workforce. Approximately 40 per cent of adult

social care workers are qualified through regulation whereas, in the healthcare arena, the equivalent support worker role is unregulated. Therefore, one of the questions about the NCS from our perspective is whether it is appropriate to bring regulation across the wider workforce within the NCS. The independent review is looking at how there can be scrutiny of all aspects of the NCS. Therefore, that is another important area of parity.

Paul O'Kane: Kay McVeigh comes from a personnel and development background. What is your sense of what the bill needs to do? We have just had a conversation about what is not in the bill. Regardless of that process, what key actions are needed to drive that parity, particularly from a local authority point of view?

Kay McVeigh: That is interesting. Alison Bavidge mentioned that it is easy to say but hard to do. I sit on the fair work groups in the national workforce strategic forum, so I get a sense of what is going on, from a local authority perspective and in the wider context. A lot of what Colin Poolman said about the workforce chimed with my experience.

Terms and conditions is a difficult issue, because so many employers are involved, and employment law is one of the difficult aspects that we need to overcome. A fair bit of further discussion is needed about how we can make changes. For example, there is the fact that some staff are paid 61p per mile and others are paid 45p per mile, and there is different pay for the occupational therapist who works under local government conditions from that of the OT who works in health. There are huge structures behind that with regard to job evaluation and pay models, which are not easy things to change. There is not much opportunity in the existing system to have a good conversation about those issues.

It is not just about pay and mileage rates. It is probably a broader issue of modernising terms and conditions of employment. However, more fundamentally, I concur with what colleagues are saying about the fact that we are in crisis at this point in time. We need to do something right now and not wait for the bill to answer the problems. Yes, we should continue on the improvement journey for the future but, from a workforce planning perspective, I see a really poor position that is deteriorating quite rapidly, and I am sure that Colin Poolman sees the same position in his area.

Sharon Wiener-Ogilvie: I agree with what has been said about the workforce. There are issues around parity of terms and conditions between local authorities and the health service, but they are not just around pay; they are also around support, provision, training and career pathways.

We are already seeing parallel services between the health service and local authorities because of those differences. It is absolutely important to support the workforce, not just in terms of pay and conditions, but with training, development and career pathways.

The Convener: We will move on to talk about the national social work agency, and questions will be led by Evelyn Tweed.

Evelyn Tweed (Stirling) (SNP): Good morning. The policy memorandum states that a national social work agency would be expected to provide “national leadership, oversight, investment and support” to the profession.

What functions should the agency perform that are not covered by other bodies or agencies? That question goes first to Alison Bavidge.

Alison Bavidge: I think that I have already mentioned support for implementation and consistency across Scotland in the profession. It is perfectly reasonable for people in Scotland to expect some sort of consistency in the way that we approach social work tasks, in the role that we perform in identifying need and unmet need, and in the way that we support our commissioning colleagues to develop services to meet the individual and community needs in particular areas. Implementation is going to be key to supporting knowledge about what works in terms of integrating research, quickly and effectively, into the practice of social work and the decisions that are made. As we know, times, cultures and knowledge change very quickly, so instead of having a lot of different people across the country doing that work, it would be really helpful to have a single agency.

We are keen that a level of independence from Government be required, so we were disappointed not to see that in the bill, because we hope that the agency’s role would not be dependent on the nature—shall we say?—of Administrations. Also, to be frank, quite often social work needs to be critical of Governments.

In addition, we expect the agency to offer a home for the excellent work that is going on around strategic approaches to getting placements for social work students and supporting newly qualified social workers. Work is already on-going on an advanced practice framework, which is about different career pathways. That would make a place for a social work career that is, in some ways, equivalent to what was in the McCrone agreement for teachers or the agenda for change for nurses in the health system.

All that is really important for getting appropriate levels of consistency and support for social workers. Over the years of austerity, support

including training and development opportunities for social workers in local authorities has diminished somewhat.

Evelyn Tweed: Does anyone else want to come in on that one?

Maree Allison: Alison Bavidge has articulated quite well the hope for what the national social work agency would bring. From our perspective, as the regulator, it is about understanding and working with the Government on how we will work with the national social work agency in continuing to set standards and to quality assure social workers’ education and continuous professional learning. It is really important that that be fleshed out, in due course.

The Convener: Evelyn, do you have any more questions, or shall I move on to your colleagues?

Evelyn Tweed: I have one more question. I understand that the SSSC supports the creation of the new agency, so what do you foresee for your future, should it come into being?

Maree Allison: We are the regulator of social work, social care and early years services. Our understanding is that we would retain that professional regulation role in which we register the workforce, ensure that they are working to the standards that are in our code of practice, promote and regulate the qualifications and ensure that qualifications meet the standards. We do not see our core functions changing specifically in relation to social work.

Paul O’Kane: Prior to the introduction of the bill, should there have been a broader discussion about the roles of the SSSC and the Care Inspectorate, and where they sit in relation to and interact with—the dotted line between them—a national social work agency? Is there enough detail on that, or do we need to do more thinking around that? Should there be a broader discussion about that after the bill is dealt with?

Maree Allison: That is where the independent review comes in. I expect that all those questions will be captured in its work. I know that Dame Sue Bruce, who chairs the review, has already issued a call for evidence and has set out the themes on which she is asking people to respond. Those questions will, I hope, be fleshed out through that process.

Paul O’Kane: Is there a danger in legislating for a national care service before we have the detail of that review? Should those aspects have been in the bill in the first place?

Maree Allison: It is certainly complicated for the independent review, because it has been asked to consider how to scrutinise all aspects of the national care service when the extent of that service has not yet been fully decided.

The Convener: I will move the discussion on to multidisciplinary teams. Stephanie Callaghan is leading on that theme.

Stephanie Callaghan (Uddingston and Bellshill) (SNP): I thank the witnesses for being here this morning.

Yesterday, we paid a visit to Granite Care Consortium in Aberdeen, which consists of 10 providers. People from the health and social care partnership were there, too. They talked quite a lot about moving away from the time-and-task model to an outcome-based delivery system, which is increasing their capacity. Shona from the health and social care partnership described providers as being like a spider's web that pulls everything together over the top of the city. Are there opportunities to improve multidisciplinary work by adopting that approach through the national care service? I will go to Alison Bavidge first.

Alison Bavidge: There are huge opportunities, which are starting to be explored, in the world of integration. There are various integration models across the country for children's services and justice; there are differences in respect of what is in and what is out.

During my career, we have been talking about outcomes for 25 years. What seems to get in the way of outcomes is the bureaucracy that we have put in place: the administrative tasks are an administrative burden. The report "Setting the Bar for Social Work in Scotland", highlights that 78 per cent of social workers said that they have a very high administrative burden and that they are spending 40 per cent of their time on administration tasks. Clearly, that reduces not only the time that they can spend with people who need services, but the time that it takes to build and coalesce a real multidisciplinary team.

The key things for multidisciplinary teams are that we have round tables and that the third sector be part of things, rather than just being linked into things through our commissioners. It is really important that the teams work in localities whose needs they understand, and that they can be seen by and are accessible to communities. In that way they develop trust and understanding, which is particularly important for social work because it has become somewhere that people would rather not set foot in, to be frank. We would very much like to regain that ground.

For teams to really work together, they need to work in small enough areas, have connections with communities and have the time to do that. Those things cannot happen if people are running around and do not have capacity. The message that all the witnesses are giving the committee today is that having the capacity to engage and be involved in co-design is tricky and that, in the field,

it is tricky at the moment to find the capacity to deliver thoughtful relationship-based and holistic approaches with options that are tailored to individuals, in the spirit of self-directed support.

09:45

Colin Poolman: Multidisciplinary teams are the key to everything within localities. Artificial barriers cause huge issues between organisations. It is interesting that, when we put teams together, they work through the barriers. Sometimes, we put structural walls up for them, so we need to take care not to do that.

I have talked before about the unique role that nursing and other professions have within a multidisciplinary team. The beauty of such a team is in its having the right people in the right place to deliver the right care at the right time. That is what integration is all about.

I suppose that that is why I was disappointed that there is no reference in the bill to safe staffing legislation because that would help us to develop and prepare for multidisciplinary teams in the future by enshrining the importance of workforce planning. Whether we are in healthcare or social care, we are too insular when we consider workforce planning, so such legislation would make future multidisciplinary teams work for the people whom they care for.

Sharon Wiener-Ogilvie: The other important way to make multidisciplinary working more effective is data sharing between healthcare and social care. The evaluation that Health Improvement Scotland has done on integration approaches such as neighbourhood care shows that a basic lack of infrastructure for record and data sharing gets in the way of people working together. We see that in our discharges from hospital; it can take two hours for a nurse to fill in all the information to discharge a patient into the community.

The burden of bureaucracy is huge and no change in structure will make the system more effective unless we streamline the existing bureaucratic needs and get better data sharing agreements. Those are the key things that we need to work on.

Stephanie Callaghan: That is really interesting, because one of the points that the people whom I spoke to yesterday made was that, last winter, they had one of the lowest delayed discharge rates in Scotland and they felt that data sharing was a huge part of the reason for it.

Colin Poolman's comments on what else we could put in the bill were also interesting. Is there anything else that witnesses would like to be in the bill to help multidisciplinary working to become

more effective, particularly in relation to early intervention and preventative care?

Maree Allison: I do not have anything to add on that.

Alison Bavidge: Early intervention and early support are incredibly important. If we want to reduce individual crises and their impact on public services and improve people's independence, they are absolutely what we need.

We could share data much more effectively and efficiently. In my career, I have worked on data collection since about 2005 and have done some big projects. It is never as easy as we think it will be. We still have issues with assumptions about the general data protection regulation—GDPR. I will quickly give you an example. There were two nurses in the same NHS board; one was working in a hospital and one was working in prisons, but one of them felt that they could not share information. There is a lot of work to do on how we get better at sharing the data that we already have and how we enable professionals and individuals to make the most of it.

Kay McVeigh: Using data sharing effectively to deliver outcomes is not new stuff; we have been struggling for a while with issues such as technology and whether to go for another system. Having antiquated systems that do not talk to each other makes life more difficult than it needs to be in an integrated world.

I want to touch on culture and trust, which have been mentioned a couple of times. I am going to be radical and say that sometimes structures do not really matter if the people in the room feel that they are empowered to go and just do stuff. We are lacking that, a little bit. The example was given of one person not feeling like she could share and the other feeling that she could, and them wondering what the other thought would happen if they did share. It is about allowing people that space and, as Colin Poolman said, people coming together and working towards an overall outcome.

There are some projects on the go that might help on the data-sharing side—such as ones that are using Microsoft federation—but do not ask me any questions about that; I just know that they are a thing.

The Convener: There will be more detailed questions about data sharing later on, so you have been forewarned.

Kay McVeigh: There are practical problems that turn up within teams—for example, when people cannot organise meetings with each other because they are not on the same Outlook calendar. There are things that could be made simpler but, fundamentally, people will find a way if

they are given permission and the culture is right and says that they can just get on with it.

Sharon Wiener-Ogilvie: We think that we need AHP leadership at the centre of strategic planning and commissioning to ensure that the prevention and rehabilitation agenda is maintained, and we also think that some planning and commissioning practices need to be changed so that they are focused on outcomes.

In some areas, AHPs have not been involved and the focus on outcomes has been removed and is all on activity and outputs, which are the opposite of outcomes. AHPs should be right at the centre and have leadership in care boards in order to be able to influence the rehabilitation and prevention agenda.

Emma Harper: I will go back to multidisciplinary team working. I gave the example earlier of a person who had eight social workers. I have heard examples of support workers who look after people seeing deterioration that requires a step up in care. Currently, that requires a referral for further assessment, which takes time, although it is obvious to the support worker that additional care is required. As part of multidisciplinary team working, would it be better if direct engagement could flatten the bureaucracy so that faster response times could be delivered for people who need their care to be escalated? I see that Colin Poolman is nodding.

Colin Poolman: Absolutely. We need to empower teams to deliver care, but we put bureaucracy in their way. That is where joined-up working does not work.

In the example of the person who needs stepped-up care, that could mean that they need district-nurse support. That needs a referral to go through, but as it goes through it slows everything down for the patient, who is not getting the care. However, if staff are in an integrated team, that process can be very quick because they can have direct communication and rely on each other's professional judgment, which means that care can be provided very quickly by the right person. We all need to look at how we can get the right person to deliver the right care.

We often put artificial barriers in place; we have all spoken about the bureaucracy and systems that do not speak to each other. That puts barriers in place not only for staff—who are frustrated—but, ultimately, for the patient who is receiving care.

The Convener: That is exactly what we heard yesterday from Granite Care Consortium, which told us that it has a model for how care boards should work, so it can be done. It was interesting to hear you frame things in that way in your response, because those of us who were in Aberdeen yesterday heard about that in action.

I think that Gillian Mackay has a question, before we move on.

Gillian Mackay (Central Scotland) (Green): Yes. There are concerns that “community healthcare” is not defined in the bill. Colin Poolman just alluded to the fact that services and professions should be able to speak to one another and work together easily. What services and professions should come under the heading of community healthcare?

Colin Poolman: I can speak with much more confidence about nursing. Nursing needs to be a key part, but that is not in the bill. Some of my colleagues would say that they do not feel fully recognised. Everyone on the journey needs to be recognised and included.

We are not good at making the link between healthcare and social care. The delayed discharges from hospital that we are currently dealing with are the result of our not having good communication between teams. It will come as no surprise to members when I say that they are also down to the lack of a workforce in the community that can deliver the care that is needed. We have not supported development of the workforce that is required to meet increasing care needs.

James Dornan (Glasgow Cathcart) (SNP): We heard from Mr Poolman about barriers that prevent workers from working together closely. I was a member of a community health and care partnership in Glasgow 11 or 12 years ago, and I saw the same problem, not between the workers but between the people who held the power, who found it very difficult to trust the workforce to work together. Might a national care service help to smooth over some of those problems, which still exist between health and social care, even though things have got better in the past 12 years?

Colin Poolman: The issue at the moment is whether we could do more with the current services to empower people to work with their colleagues. The convener talked about the experience in the granite city, which shows that things can work now. Why are we not learning from systems that are currently in place and removing artificial barriers, where they exist? Colleagues are frustrated about care being blocked because artificial barriers are in place.

On Mr Dornan's point, people who are in a position to make decisions need to empower staff to—take this in the right way—just get on with it, because that is what they want to do.

The Convener: But the people at Granite Care Consortium told us that they would like their best practice to be replicated in a national care service, in care boards across Scotland. That is the vehicle. They said to us, “Get on with bringing in the national care service, so that that can happen.”

Colin Poolman: That is interesting. Someone who has had a positive experience might be more confident about moving to a national care service. However, a lot of people are not currently having a positive experience and are worried about the lack of detail and being thrown into the kind of large structural shake-up that we have all been involved in over the past few years, in which people lose focus and the issue becomes the structure and not the people who we care for.

Alison Bavidge: We are slightly skirting round this issue: we have talked about wanting teams to work together, but to do that they need to understand and have control of budgets. Mr Dornan talked about how senior management sometimes does not come together; a lot of that is about how resources and budgets work. We need to be clear about that. To be blunt, we need more resources in the system, and if we can get to a point at which local teams have easy access to budget and can decide where it is best spent, we will be able to realise some of the benefits that we are all looking for.

The Convener: Our next theme is workforce pressures. We have already talked about that, but Emma Harper might want to fill in the gaps.

Emma Harper: Sure. I will be quick. I am thinking about the bill and the fact that we have recruitment and retention issues across health and social care. We need to get people into the workforce and value them. Dumfries and Galloway College, for example, runs care courses that really consider career development.

I was a clinical educator—I was a nurse who taught nurses how to provide care at home, including central venous access and things like that. I am interested in the extent to which you think the bill will help to address recruitment and retention, especially if a standardised approach to career development is part of the proposals in the bill.

Kay McVeigh is looking directly at me, so perhaps she can start.

10:00

Kay McVeigh: I am not certain that the bill will help with recruitment and retention. We are where we are at this point in time and, quite frankly, there is just not enough available workforce in Scotland to fill all the roles that we have, whether it is in health and social care or in the many other places where we are struggling to recruit.

I have a real concern about retention, which is a growing issue. Health colleagues are certainly seeing the same impact that we are seeing from the pandemic, in that people are leaving earlier or staff are looking for an easier role.

I am not sure that the bill gives hope that we will change that rapidly, but we could be doing something right now on career pathways, standardising the approach to training and so on. That approach worked well in the expansion of early years provision—there was a good programme on that and there was good structured activity to bring in people who were not there previously. We have not got quite the same programme on health and social care.

Maree Allison: We certainly welcome the emphasis in the bill on investing in training for the social care workforce, because there is the requirement, once registered with us, to obtain the qualification. However, there is a really mixed bag in terms of where the funding for that training comes from—some employers will fund it but some will not. Access to training is a challenge, so we certainly welcome the concept that the national care service may assist with that.

To pick up on what Kay McVeigh said, our register for people working in early years is increasing, as we are seeing the roll-out of the funded hours and there is a really high level of qualification in that workforce. I think that 73 per cent are fully qualified, so that has definitely been successful.

Colin Poolman: Training and development are key to the development of services at all levels of practice, from entry to advanced practice. However, the bill needs to be strengthened in relation to training. Section 24 of the bill says that care boards “may” provide training. We think that the bill should go further than that and that care boards should be mandated to provide training; it should be compulsory.

Emma Harper: Colin, I am sure that you would welcome the fact that the bill says that

“The Scottish Ministers and care boards may ... provide training”,

because that has not been the case previously, and we know the importance of teaching people about moving and handling and infection control and prevention measures, especially given what we have seen during the pandemic. I take it on board that you think that the bill might need to go further, but do you welcome the fact that training is in the bill in the first place?

Colin Poolman: We absolutely welcome that it is there but, as I say, we would like to see the bill strengthened so that it is mandated that training has to be delivered, rather than say that it “may” be delivered.

The Convener: Paul O’Kane has questions on transfer of functions and staff.

Paul O’Kane: We have heard a lot of evidence on this area and on the known unknowns, if you

like, around it in the bill. What is your view on the Scottish Government’s approach in the bill on giving Scottish ministers powers to transfer functions? First, what does that mean for staff morale? Secondly, what are the main concerns of staff?

Kay McVeigh: Probably the first thing that I heard from colleagues was about there being a bit of inequality there. People were talking about local government staff, for example, potentially being caught by the Transfer of Undertakings (Protection of Employment) Regulations—TUPE—but health staff definitely not being caught by TUPE. That is probably the first thing that really gave the workforce a bit of concern.

The minute you talk about such change, people want to know what it means for them, and TUPE is complicated. I cast my mind back to local government reorganisation, when people moved, and it took us years to try to harmonise terms and conditions. That was very unsettling for people, because it involved bringing together different cultures, which can be an issue in itself. A more recent example is the creation of the single fraud investigation service, which took years to roll out, during which a small number of employees from a local authority environment joined that national service.

It worries people—they ask what a transfer might mean for their pension, for example—which is why the communication with the workforce needs to be kept up. People have misconceptions about what TUPE will and will not cover—it might or might not be like for like, or people might feel that they are not getting access to the same benefits that they previously had. That level of uncertainty is just one step too far for individuals. That uncertainty and the thoughts around TUPE are perhaps what are driving some of the workforce reaction.

The Convener: We need more clarity on that from the minister. That is helpful for us to know.

Kay McVeigh: It is very personal. There are a multitude of people with different terms and conditions, and they want to know what this means for them. There is no easy answer to give—a lot of work is needed on that.

Paul O’Kane: Would it have been better to give people certainty in the bill, or not do it all, as the Convention of Scottish Local Authorities thinks?

Kay McVeigh: The minute that you mention TUPE, people get worried. They think, “I’m going to be transferring employers. What does that mean for me and what protection does it give me?” Individuals and their representatives in the trade unions ask the same questions. You do not have enough detail at this point to know the

answers, so it would be hard to put that certainty in the bill.

The single fraud investigation service used a different vehicle for moving staff from councils to that national body. It is much of a muchness—just a different vehicle—but there was the same level of concern, which took a considerable time to work through.

Paul O’Kane: I have a brief follow-up question. Much discussion of costs has taken place in recent weeks, in this committee and other committees that are scrutinising the proposed legislation. Are you concerned about the cost of transferring the staff in setting up new services? Is that a worry for local authorities?

Kay McVeigh: The change in structure is a worry in itself. If we do not know what the future looks like, it is difficult to cost what it will entail. If we think about the experiences that we have had, we see that we have to think about harmonising terms and conditions, which is an easy thing to say but a costly and quite contentious process to go through. At this point, we have no idea what the cost might be in the longer term because we do not know the shape or form of what we are aiming for.

Stephanie Callaghan: I want to briefly pick up on a wee point that Kay McVeigh made about staff feeling that they do not know what will happen or where they will be with their terms and conditions. I thought that TUPE meant that people’s terms and conditions had to be at least as good as their previous ones.

Kay McVeigh: That is a lot of work for employment lawyers. People transfer over from where they are and they might not be able to stay in the same pension scheme. That is a big concern among the professions that the bill covers, because they are all very different—for example, I am in a local government pension scheme, and I have been in it long enough that I have some protections in it that I would not have in a new scheme.

Stephanie Callaghan: That is helpful to know.

Alison Bavidge: I have a couple of observations on the transfer of functions and staff. What we are really talking about is adult services staff. The policy memorandum refers most directly to social workers, paraprofessionals and the commissioners and their support staff who are currently in local authorities, as the group most likely to be looking at their futures most directly, given that care services might stay as regulated care services and providers. I just point out that, at the moment, that is a particular issue for social work and its connectors.

The other problem for us is what will happen if social work staff do not move into the national care service. That would likely mean that there would be a separation of the workforce from the duties and powers that will be in the legislation. The care boards would have the duties and the powers, but the social workers would remain with local authorities—I am using social workers as an example because that is the profession that I represent. Then there would potentially be a disconnect between who delivers on those duties and powers and how they are delivered, and there could be the risk of commissioned services, which our members would not support at all.

The Convener: We move on to training and research.

Sandesh Gulhane: I would like to start with Kay McVeigh. Does the bill as it is laid out guarantee robust training for all staff that are being transferred?

Kay McVeigh: As we have heard, the bill says that training “may” be provided. I am not sure that robust training and support for staff can be seen in the bill as it stands. There would certainly need to be much more detail about that.

Sandesh Gulhane: With regard to recruitment and retention, I have heard Alison Bavidge say that the average social worker is in post for six years—

Alison Bavidge: We lose 25 per cent of newly qualified social workers in the first six years of practice.

Sandesh Gulhane: When there are recruitment and retention issues, there is pressure on staff. In my experience of the NHS, one of the first things to go is training and research. How could the bill protect staff when it comes to research and training?

Kay McVeigh: It starts with additional resource. In the teaching world, for example, there is protected time for training and development activities and a whole structure for doing research and bringing research into practice. There is no equivalent for that in, for example, the social work environment—I use that example since Alison Bavidge happens to be sitting next to me. As the bill stands, I am not sure that training and research can be seen as an output from it. The resource is also needed to do that in the first place.

Colin Poolman: I will quickly add to what I said earlier. You need strength on that point, so the bill should say not that training “may” be provided but that it “must” be. That would be key.

Sandesh Gulhane is absolutely right that training is the first thing that goes. The first thing that people look at to save money is training and

development, but that is actually the key thing that you should not change.

As I have said before, the training also needs to align with workforce planning. The link to the safe staffing legislation is key, because it covers workforce planning, and that includes workforce development as you go forward.

Sandesh Gulhane: We always focus on training, and we know that it is vital to everything, including people's wellbeing as they go through their career. What about research? How can we be sure that research is being done by people who want to do research? We are going to come on to questions from Gillian Mackay about data, but there should be rich data. How can we ensure that people from other areas who want to do research for social work get to do it?

Alison Bavidge: I suppose that it is about making a culture where that happens. Kay McVeigh talked about having time. If we want to enable people who are working to undertake research that helps, we need to make time and structures that enable that to happen.

We have a social work academia in Scotland that produces lots of research, but how do we connect that research and turn it into good practice? How do we reflect on it, review it and learn new things from it?

There are positives in having national structures such as a national social work agency. That would enable the collation of research as well as learning about the gaps in knowledge—areas that are not being researched, maybe because they are not popular. Then we can seek out individuals or other university departments that have specialist expertise in those areas.

Sharon Wiener-Ogilvie: There are questions about how we can ensure that research is an integral part of what people do. The creative development framework that NHS Education for Scotland developed, for example, talks about the clinical training, leadership and research elements of the work of AHPs and nurses.

In the NHS, we are trying to make sure that staff have a proper work plan, depending on their grade and level of working, that enables them to dedicate time to research. If those staff enter the national care system, where there might be different thinking and a different culture and where such a framework might not exist, there is a danger that that approach will not be maintained.

10:15

Emma Harper: Research and training—clinical nurse educator was my career for many years—are in the bill. In the section entitled, "Research", the bill says:

"The Scottish Ministers and care boards may do any of the following in relation to research relevant to the services that the National Care Service provides—

- (a) conduct it,
- (b) assist others in conducting it,
- (c) give financial assistance in relation to it."

That will enable us to say in further legislation that we absolutely value research and training—and training leads to quality care, improvements and career progression. The bill is a framework bill, which will enable further research and training as we move forward with the national care service.

I am not sure whether that was a question or just a comment.

The Convener: Does anyone want to respond?

Alison Bavidge: What Emma Harper is talking about—career pathways and options—is important. We need people who will go into academia; we need people who will be practitioners; we need people who will go into leadership and senior management positions. We need practitioners to keep honing their skills. They might specialise and develop particular skills.

I mentioned agenda for change. We need some kind of framework. The office of the chief social work adviser is currently working on the advanced practice framework, and we need to pursue that. We have such an approach for teachers and we have it in parts of health; we should be working towards having it for social work. We need to replicate the approach across the professions.

We must also ensure that people can find it easy to move profession at particular points in their professional lives. We want people to come into what is a very broad sector and have healthy, thriving professional lives, feeling that they can do what they came into the profession to do and can move around, experiment and develop their skill set.

Colin Poolman: I agree with all of that. The question is whether funding is available and ring fenced for that purpose. An issue in social care is how we find opportunities to do multiprofessional research: it is about not just uniprofessional research but the multiprofessional element, which leads to the integration that we have been talking about.

Emma Harper: We have NHS Education for Scotland and Healthcare Improvement Scotland. We now have Public Health Scotland. Our national health service workforce looks to those bodies for advice. The bill could enable our national care service to tap into expertise in NES, HIS and Public Health Scotland. Can we reasonably assume that that would support education and research?

Maree Allison: We already work closely with NES, which I know regards an integrated approach across health and social care as very important.

Emma Harper: Okay. Thank you.

The Convener: We move on to data.

Gillian Mackay: Despite there being significant gaps in social care data, there is no requirement in the bill for care boards to collect data or report on performance. What data should be collected to inform social care reform and the development of a national care service? I know that that is like asking, “How long is a piece of string?” but your thoughts would be greatly appreciated. I will come to Kay McVeigh first.

Kay McVeigh: I will take a strand of that question, and I hope that colleagues can fill in some of the other areas.

Data collection is always problematic. In the health and social care world, we do not necessarily speak the same language, which makes things tricky: I might talk about turnover, and someone else in health will have different terminology for that. However, in the social care world, it always makes me a little irritated that people talk about how many vacancies there are, when, at the same time, they do not talk about unmet need.

When we think about vacancy rates, the question is indeed “How long is a piece of string?”, because it depends on what is required to be delivered, the state of providers in the area and who is able to do what. It would be good to get a common approach to language—maybe something that makes data gathering a bit more straightforward so that we can share data in a more effective way and understand what the data is for. For example, a lot of data can be gathered in workforce planning, but are we interrogating that in a meaningful way in order to get the right outcomes?

Colin Poolman: I agree with that. It is about having a shared understanding and shared data. The social care system lacks a lot of data; it is not available—well, it is available, but we just do not gather it.

There is also a point about systems to gather the data. In particular, given the raft of employers that are involved, we need to make it easy for them to input data so that it can be used and interrogated for the purpose of developing services that meet the needs not only of the individuals we are providing care for but of the workforce. As we speak, that data is missing.

Maree Allison: We are a national statistics provider and our workforce data reports, which we have been publishing for more than 10 years, are

cited regularly in the documentation that surrounds the creation of the national care service. There is data about the workforce, but I acknowledge the point about what is missing and Kay McVeigh’s point about data being linked to outcomes, which can be very difficult to do. Work needs to be done in that area.

Alison Bavidge: We need to decide early on what is important, what we are going to measure and why. That will lead to datasets and standard ways of collecting data. We need to remember that data drives what we do. We know that there can be issues with waiting lists, times and so on; data drives how we manage what we do, so we need to be careful.

We have mentioned collecting data on unmet need a couple of times. In social work at the moment, that data is not collected. If someone presents but is nowhere near the eligibility threshold at that moment, although we might signpost them, we effectively tell them to go away until they are worse and to come back then. No note will be made of that, and there are no data systems that collect that information. We might record that there has been an interaction, but we are not collating information on the level of need. Of course, resources have been scarce and the threshold for eligibility has been increasing.

One of the first things that a national social care service needs to do is to understand the early support that people need and the level of preventative early services that we should be aiming for. If, as a society, we decide that we cannot afford that, we absolutely need to look at resource—let us not be naïve—but that will then become a political and social decision. However, we need to know what we are dealing with, which, at the moment, is the tricky bit.

Gillian Mackay: To a certain extent, there is some anticipatory care planning in places. We heard that the Granite Care Consortium is moving towards an outcomes-focused model, rather than collecting data on when people clock in and out, because that is binary and does not give a flavour of the service that is being delivered. How do you see anticipatory social care planning and anticipatory healthcare planning feeding into an outcomes-focused model? I am assuming that the panel would like to see a move towards models that are more outcomes focused, rather than a time-and-task approach. If I am incorrect about that, you can correct me.

Alison Bavidge: You are very correct. As I have said before, trying to get to an outcomes-based approach is not a new thing, as we have been aiming for that for a long time. However, some of the structures that we have perhaps prevent us from working as full interdisciplinary teams. Maybe we are not working as locally as we

could and are not as accessible to people as possible. People do not come and chap on the social work department's door any more, and they perhaps have to chap on many different doors to find the right one. The notion of a single point of contact is really important. We have to make those points of contact local so that we begin to know people's faces and where the integrated teams are in a local community, and so that there is a level of trust that those teams are working for the community, to strengthen and build and to catch people who may fall through gaps.

The Convener: Stephanie Callaghan has a question on that issue.

Stephanie Callaghan: Thank you, convener—I am back again.

Alison Bavidge is absolutely spot on. We all know that data drives what we do, so data collection is hugely important.

When we look at outcomes, the voices of professionals are often right up there. How can we ensure that we also hear the voices of those who receive care and services, because sometimes their view can be a wee bit different? It is about having parity.

Alison Bavidge: I am absolutely happy to comment on that. There are a few points there. Certainly, the essence of what social workers go into social work to do, and are trained to do, is about human dignity, human rights and social justice. It is about hearing people who are not otherwise heard—that is our very essence. However, when we get out into practice, there are mechanisms that do not enable options to be fully explored or delivered, or there are resource issues that mean that there are problems. It is always concerning to hear that the voice of somebody who is using services might not be heard. We view ourselves as an advocacy profession, and we want to stand alongside people who need services.

In moving towards a national care service, we need to ensure that front-line professionals are empowered to do that advocacy properly. That goes back to some of the things that we have talked about around professional parity. It is about not having assessments rejigged so that there is a lower resourcing requirement, or not doing some of the other things that have happened. We need to be honest.

Another thing that can happen—for social workers, this is part of our bread and butter—is that the views of people and their carers and family might be different. We have a role in supporting people to work through that, negotiate and seek a way through the human rights issues that appear because we are creatures who live in families and communities. We are not islands, so

our human rights impact on those around us. We must always ensure that we have clarity on where rights rub up against one another in families. Where there are child protection and adult support protection issues, the bottom line is that it often feels to people that their views may not be taken on board fully. However, the profession of social work is about trying to enable people to work through that and have the least damaging experience of what is sometimes very crisis-driven work.

Colin Poolman: It is about making sure that the voice is heard at every level. It should be heard at the commissioning stage, but also when the care or intervention is being planned—the individual should be involved in that. It is equally important that, when care has been delivered, we get the reflections of individuals who have received the care, and that those are recorded and fed back. I come back to the point about data. If you start to take those responses, you can build the effectiveness of your services.

The Convener: That is a good note to end on. I thank all our panellists for their time and for what they have told us. I suspend the meeting for 10 minutes to allow the panels to change over.

10:30

Meeting suspended.

10:40

On resuming—

The Convener: Our second evidence-taking session comprises representatives from trade unions that represent the social care workforce, and I welcome to the committee Mary Alexander, deputy regional secretary, Unite; Tracey Dalling, regional secretary, Unison Scotland; Roz Foyer, general secretary, Scottish Trades Union Congress; and Cara Stevenson, organiser for the women's campaign unit, GMB Scotland. Thank you for coming to speak to us about the national care service.

I want to take us back to Derek Feeley's review and its recommendations. Do you see the framework bill as the springboard to realising the recommendations of the so-called Feeley review? I just want to get everyone's views on that question before I bring in colleagues, and I ask Cara Stevenson to respond first.

Cara Stevenson (GMB): Looking at reforming the social care sector on the back of the Feeley review is welcome, because great things can be done in social care if they are done properly. Right now, though, the bill is not prescriptive enough to give reassurances to the social care workforce, and social care staff are being asked to take a

leap of faith into what the Scottish Government is trying to do around the national care service. They need more information, and there has to be more to the bill to give the workforce faith that it will work.

The Convener: Do you not agree with the idea of having a co-design process to inform the secondary legislation that will then provide that detail? Would you rather the bill be completely prescriptive about everything and do away with the co-design process, or do you agree that this way of doing things might mean a bottom-up rather than a top-down approach?

Cara Stevenson: We definitely agree with—and welcome—the proposed co-design process, because we think it really important for people with lived experience and the workforce to be involved. However, all the questions that are asked at the moment seem to get the answer, “It is subject to co-design.” It is hard to get the workforce on board when there is not a lot of information to go on; indeed, we struggle to get them involved when they keep asking, “What does this mean for my future?”, “What does it mean for my career?”, “Am I going to be able to feed my kids?” and “Is my employer going to change?” and the answer to all those questions is, “It’s subject to co-design.”

We are asking the workforce to take a leap of faith into co-designing something about which there are not a lot of answers just now. That is where we are having issues, so there has to be more in the bill. Yes, we welcome the co-design process for dealing with the intricate details, but the framework itself is very wide.

The Convener: When you say that there has to be more in the bill, what specifically do you want to see in the framework that would not be part of co-design but which would already be in the statute without having been through the co-design process?

Cara Stevenson: Collective bargaining, for example, is a big issue for us to ensure that the workforce is represented. We do not think that there has to be co-design around that; after all, the workforce should be represented. There is also the issue of fair work, which is something that we would not see the workforce saying that they do not want.

Lots of things could be done to enhance social care now instead of their having to be co-designed for the bill. For example, there could be changes with regard to the staff issues that trade unions have been bringing to the forefront.

The Convener: Mary Alexander, does the framework as written at least provide a springboard for the aspirations and recommendations in the Feeley report?

10:45

Mary Alexander (Unite): The Feeley report contained a number of positive elements, and there was wide-ranging consultation as part of the review. However, we are disappointed that the mixed provision of care services will be retained. As a union, our position is that the national care service should be publicly owned and run and universally free at the point of need.

The Feeley report includes a number of positive recommendations, such as adopting the recommendations in the “Fair Work in Scotland’s Social Care Sector 2019” report. However, as Cara Stevenson has indicated, there is a lot of frustration among the workforce about the amount of talking that is being done with regard to what needs to change in care and the position of the workers. I know that, because the Fair Work Convention undertook an extensive inquiry on it, starting in 1917—I mean 2017, although it feels kind of like we started it in 1917. It is now coming up to five years since we did that work.

That report’s recommendations were published in February 2019, and, in 2021, the Feeley review said that we should adopt them. That echoes a lot of what we have been saying about sectoral bargaining—that is, having minimum terms and conditions and changing the commissioning and procurement process. It is therefore very frustrating to hear all the talking that is going on—and which has been going on for the past five years—and our members are frustrated beyond belief that nothing concrete has been done to change what happens in their day-to-day job roles.

In Edinburgh, there is a 20 per cent shortage in staffing. We regularly get calls to our office from people who say, “I’ve had enough. I can’t cope any more.” They say that things are really difficult, that they are getting neither the support and supervision that they need nor the necessary training to deal with people with mental health problems or learning issues. There is a lot of frustration out there.

The mileage rate issue is a big problem, too. People say that they cannot afford to take their cars to work because it is not cost effective, and they ask why the temporary arrangement to increase the mileage rate for NHS staff does not apply to them. They feel extremely undervalued, and, given everything that they did during the pandemic to keep vulnerable people safe, they are very disheartened. They want immediate action, and those immediate demands are highlighted in the Scottish Trades Union Congress briefing, because we absolutely need them. There is a huge crisis.

Places such as Aldi are paying £10.50 an hour, so a lot of people are leaving. After all, working

there is not—to be frank—as emotionally draining, and it is a better job. For a start, you do not have to worry about what happens to the vulnerable service user when you leave work without having had the time to deal with things.

The Convener: My colleagues will probably dig into the detail of some of that, but we want to keep our focus on scrutinising the bill. The issues that you have highlighted are important and inform what the national care service hopes to achieve, but we need to bring the discussion back to the bill in front of us. I will keep bringing people back to that, because the committee needs to make recommendations informed by witnesses' evidence.

Tracey Dalling, can you respond to my initial question on the Feeley review?

Tracey Dalling (Unison): The focus of a large chunk of the inquiry into fair work in Scotland's social care sector was on improving the quality of the work in contracted-out social care, but the bill itself does not set out how it is going to make such improvements. I would say, in summary, that poor-quality jobs leave you with poor-quality care. This is a bit like the point that Cara Stevenson has just made, but I have to say that, as much as the bill talks about ethical commissioning and although those words are very warm and welcome, I have absolutely no idea what that will mean in practice.

You have asked whether we want the Parliament to be prescriptive or to provide a framework; my answer would probably be "Somewhere in between." Ideally, we would want you to be prescriptive about all the things that we have highlighted and to provide more of a framework for some of the other things.

At the core of this is ethical commissioning. If you are going to create care boards that will commission services, what does that mean for the staff? At the moment, it means that staff could be contracted out—that is, hired out—on a contract-by-contract basis and moved from one employer to another, so that they would never be in a stable environment. I am sure that you will want to speak to your colleagues on the Local Government, Housing and Planning Committee about the evidence that we have given on workforce issues. We talked about how we retain a quality, trained workforce under the fair work principles. That is where we need prescription. All the fair work principles that we have worked so hard to achieve, jointly, need to be embedded in the bill.

The Convener: I presume, then, that the contractual aspect is more a question that you have, because it is not explicit in the bill.

Tracey Dalling: We have huge questions about that. We would say, "Don't do it." We do not think that you need to embark on huge structural reform

in order to make some improvements around fair work and workforce engagement.

Let us take, for example, the sick pay issues that existed throughout Covid. The Scottish Government intervened and put in place a robust system to look after the health of workers, so that they could take time out when they were ill and then return to the workforce. It did all of that without introducing a bill. There are lots of things that you can do—

The Convener: But there was emergency legislation in that regard. My understanding is that, where there is ministerial responsibility, the Scottish Government can step in if, for example, a provider fails or standards fall.

Tracey Dalling: I have had that explained by one of your colleagues. If all the Scottish Government needs to do is intervene when there is a systemic failure, it can do that without creating care boards and everything else that goes with them. It has done it before and it will do it again. It happened in my local area; there were failures in homecare provision and the council stepped in, at huge cost. I also know of examples in some rural communities, where it has cost a huge amount to buy a care facility from a private contractor.

The Convener: You do not believe that the Scottish Government should be stepping in.

Tracey Dalling: I believe that it will have to step in at times, when there is some kind of failure. I do not believe that it needs to create the national care service, through the proposed framework, to do that.

The Government will always step in when it feels the need to do so. It has stepped in before when there have been crises, and it has done so without a bill. I am not sure what the step change here is, if the bill is about dealing with emergencies. The inference is that it is about not emergencies but far more routine issues, and that is why such provisions are being put into it.

The Convener: Let me take you back to the pandemic, when there were failures in standards in some care homes and the Government had to use the Covid legislation to step in. At the moment, the Government does not have the ability to step in as you suggest; indeed, as you have said, local authorities have stepped in. My understanding is that the bill contains provisions that give ministers the ability to step in.

Tracey Dalling: That is fine on an emergency basis, but it is just one component of the bill. The rest of the bill will create a huge range of obstacles—

The Convener: But that is the component that we are focusing on. Okay.

I will bring in Roz Foyer at this point.

Roz Foyer (Scottish Trades Union Congress): You asked whether the bill will meet the requirements of Feeley. Feeley said that if we want different results, we need a different system, so the short answer to your question is no—this bill does not deliver the changes that are required. If we want a truly transformative national care service, which is something that everyone here will support, is this bill the right vehicle for delivering that? I am afraid not. The bill could end up costing the Scottish Government an awful lot of money at a time when that money could be better used to deal in a much more immediate way with a system that is in crisis.

We would like our grave concerns about the areas that are missing from the bill to be addressed. Co-design is a great concept, but the fact is that key driving principles are missing from the bill. For example, there is no mention of collective bargaining, what that process would look like or how we would take it forward. We have been waiting years to see that taken forward appropriately.

Moreover, the issue of profiteering needs to be addressed, and nothing that is proposed will transform the profiteering that is still happening in our care system. If you are serious about setting up a national care service that will change things, you have to address the fact that up to almost 30 per cent of fees that are paid into care in some of our more profitable care homes are just going out the door and are not getting used on the service. In not-for-profit—rather than privatised—parts of care services, closer to 3 per cent of funding is not being spent on delivering services. That is a huge leakage of funding and, in the state that our economy is in, we can ill afford not to address the issue.

We also need to address the issue of local accountability, because it is not working through the integration joint boards with their set-up at the moment. There is a democratic deficit in how we are delivering care, and we need to make that situation better.

Our fear is that the sort of commissioning system that is being set up will neither address nor take forward fair work and collective bargaining issues in a way that gives us any surety, and that it will address neither the fact that profiteers are still sucking profits out of our care system nor the issue of local accountability.

The Convener: In that case, do you think that those issues should be covered in the framework bill straight off, informed by the work of the Fair Work Convention?

Roz Foyer: Absolutely. For the bill to be fit for purpose and worth spending the money on, we

need to see that we are actually getting something out of it. Far too many immediate—and really critical—workforce and provision issues need to be addressed for us to justify going down this path. Right now, we want the bill in its current form to be withdrawn.

Emma Harper: I will pick up on Roz Foyer's point about collective bargaining. A Scottish Government document from February 2021 states:

"The Scottish Government has made a clear commitment to promote collective bargaining through the inclusion of an employee voice indicator, measured by collective bargaining coverage, within the National Performance Framework, and will work in partnership with the STUC to achieve increased coverage."

Therefore, the intention to do that work already exists; it is part of what is being progressed.

If that work is already taking place elsewhere in the Government's processes, do you think that language around that needs to be in the bill, rather than using secondary legislation down the line to embed that in the co-designed approach? It looks like the Scottish Government is already taking forward that work.

Roz Foyer: The Government has committed to widening out collective bargaining more generally. I would like to give my colleagues an opportunity to answer some of the detail of that question, because they have been in the room representing their members in some of those discussions. However, we would absolutely like to see an explicit commitment and reference to a sectoral bargaining framework in the bill.

I do not think that what you read out goes far enough, frankly. It commits the Government to the principle of extending collective bargaining, but it does not clearly say that we will have a collective national pay and conditions bargaining framework as part of a national care service, which is the surety that we need.

I prefer to let my colleagues answer. We are the umbrella body, but they represent the members on the ground, they have been in the room and they have been involved in those talks.

Emma Harper: Much employment law is still reserved to Westminster, so certain aspects of that cannot be achieved in Scotland. We have to look at what is doable in legislation in Scotland.

Roz Foyer: This is not about employment law; this is about leverage. At the end of the day, the Scottish Government contracts care. You spend an awful lot of money on contracting care services, so you have every legal right to lay out that collective bargaining should be part of the process and that you would expect contractors who deliver care to uphold certain collective bargaining principles. I believe that that has been tested

through the construction inquiry. Adherence to collective bargaining is something that the Scottish Government could and should require as part of its contracting process.

The Convener: We will move on to questions from Sandesh Gulhane.

11:00

Sandesh Gulhane: I have to say that I was a little surprised by the convener's remarks around Covid; in previous committee meetings, we heard that the bill would make no difference in relation to what happened during the pandemic. I believe that care homes closed themselves before the Scottish Government told them to because there were still attempts to push patients in to care homes.

Cara Stevenson, will you elaborate on what you were saying in that regard? Tracey Dalling and Roz Foyer, both your unions are calling for the bill to be stopped and for the crisis that we have right now to be addressed. Will you say a little bit more about your reasoning behind that?

The Convener: Would you like to go to Cara first?

Sandesh Gulhane: Tracey first, please.

Tracey Dalling: You mentioned Cara's name—

Sandesh Gulhane: Sorry. Tracey, you spoke earlier about the emergency framework being one part of this. I would like to know a bit more about that.

Tracey Dalling: I obviously have no insight or knowledge into which organisations said what. What I would say, in recognition of the work that the Scottish Government did, is that, during Covid, when things were at their deepest darkest worst for many aspects of the workforce, measures were put in place, whether through emergency legislation or otherwise, which made a huge difference to people. If you are off sick with a dreadful virus that could kill you, there can be the financial distress of not knowing whether you can feed your family because you will not be able to access sick pay, or worse, you feel that you have to come back to work and therefore infect other people with it. That stress was alleviated somewhat through that process. For me, it is an exemplar of the Scottish Government's ability to do such things. I do not think that we need, necessarily, a huge structural reform in the context of a national care service in which to do that.

Sandesh Gulhane: Okay. Both the unions want to stop the bill and concentrate on the current crisis. Cara, will you expand on that?

Cara Stevenson: I was a home carer in my local authority and I worked all the way through the pandemic. I am really keen to bring to the table

and to let everybody know about my feelings about, and my connection with, the workforce right now.

At the moment, we feel that the bill is not fit for purpose. I will not go back over that, because I explained that at the very beginning. I will try not to get emotional when I am speaking about this, but we are dealing with a workforce who are broken and exhausted. The spotlight, which was on them, is now off them. At one point, people were saying, "Carers are doing great; they are out there. Let's stand on a doorstep and clap." However, now we are giving them a national care service bill that does not give them any job security, any value or any feeling of worth after the nightmare that they have been through for the past two years. We want reform—we want to make social care better—but what they are being offered right now is not good enough.

Sandesh Gulhane: Thank you.

Paul O'Kane: I wonder whether I can return us to the way that the bill came about. We have heard a lot about co-design after the framework bill is passed and we have heard a lot about that co-design being done through regulations.

My sense, across all the contributions here today and more widely, is that there are things that could be dealt with right now using existing powers in relation to pay, terms and conditions and the recommendations in the Feeley review and the Fair Work Convention, and that it might have been better to sit down and co-design something in a meaningful way before we got to the legislative process.

Is it fair to say that that is the position of trade union members and that that is why there is a call to pause the bill? Do you feel that it would have been better to do the co-design up front and to have a meaningful discussion about what that would look like?

Mary Alexander: I think that that is a fair reflection of how we feel. As I have said, a lot of the discussion is creating an awful lot of frustration among our members, given how long we have been talking about sectoral bargaining, for example. We have probably had hundreds of meetings about sectoral bargaining. A point was made earlier about collective bargaining, which is in the national performance framework. The fair work in social care group's recommendations are quite clear about the staffing recruitment and retention problems and the report called for a sector-level body. That was in 2019.

There has been a lot of talking and something needs to happen now if people are to feel more confident about the bill. People can see that there is not much detail about anything. For example, the provisions about setting up care boards have

created a lot of uncertainty, division and worry. People are asking, “What will happen to my job? What if we get transferred? What about the pension? What about the sectoral bargaining arrangements?” There is huge uncertainty in the workforce, on top of people suffering from zero-hours contracts and long hours without paid breaks and so on, as Cara Stevenson said.

Tracey Dalling: It is like buying a house without ever having seen it or knowing how many rooms it has or where it is located. Paul O’Kane is right: some of the pressure around why this is being done now and in the way that is proposed has come from staff not being engaged at an earlier level. The fundamental issue for us is ethical commissioning and 75,000 jobs going out of councils to somewhere—we do not know whether we are getting the same house, the house next door or a house in an estate up the road.

An approach that leaves our social care workforce, who work in such a critical area of our lives, uncertain about who they will work for and where they will be, has all the hallmarks of being a bit of a disaster, at this stage. If the Government will not withdraw the bill, we ask, please, that it pauses it and engages, because co-design was needed at a much, much earlier stage, to involve us on workforce issues. We genuinely do not know what the future looks like for around 75,000 council staff and all the social care staff who work for private contractors.

Paul O’Kane: Thanks for those responses.

Roz Foyer, you spoke about a democratic deficit in the current system, given how it is set up. Are you concerned that the transfer of decision-making power up to national level will increase the democratic deficit? Should IJBs or care boards be democratised by the inclusion of voting reps from the trade union side, or who are carers or patients with lived experience?

Roz Foyer: Those are valid questions. We are not happy with the current system, which seems to fall between a rock and a hard place and does not provide the accountability that we would like. We do not want further dilution. It is not necessarily a bad thing to have a set of national standards as part of a national care service, but it is important to have local accountability and democracy when it comes to implementing services to suit local areas.

That links in to your previous question. We need a bit of time to get this right. Mary Alexander is right: co-design needs to happen now, before we are expected to back a bill that we do not understand, because we do not know what it will deliver. It is all jam tomorrow, which is very difficult for workers who are delivering a service that is in crisis today and needs immediate action.

We get a bit sick of the co-design thing, because we have been talking about it for years. Workers have made it clear where the failures are in meeting after meeting. Ultimately, there needs to be more investment in the front line. That needs to happen now, because we have a huge workforce crisis and we have a winter crisis coming, too.

Last week, we wrote to the minister to ask whether we could put the bill aside. We also called for budget money not to be put towards huge structural changes now and for us to take more time to get it right. We need to look at collective sectoral bargaining, £15-an-hour pay for qualified care workers, sick pay, a set of national standards and a number of other asks, because those are the immediate things that would make a difference on the ground and create a workforce that is well trained and high quality. That is exactly what we need to be able to deliver the service sustainably. The issue is not that we are unsupportive of a national care service—nothing could be further from the truth—but that we want the opportunity to get it right.

Tess White (North East Scotland) (Con): I am sorry for missing the first part of the meeting. I have one question. We were in Aberdeen city yesterday. One thing that hit me this morning is the huge disparity between mileage rates—it is 61p a mile versus 45p a mile. I know that, when it comes to aligning terms and conditions, there are huge issues in relation to pensions, sick pay and so on; those costs can be huge. However, people will move even for something small, because they cannot afford to move around on a rate of 45p a mile, but perhaps they could on a rate of 61p a mile. Will you comment on that? It might seem like a tiny amount, but the impact is huge.

Tracey Dalling: You are absolutely right. For some of our members, that is the difference between whether they can afford to go to work or not, or whether they can afford to fill up. *[Interruption.]* I have just spilled coffee everywhere. I am sorry, Mary; I did not do it deliberately, honestly.

The issue is broader than that. If we look at how things are constructed as it stands, there is huge propensity for people to be contracted out. The minute that you do that, terms and conditions start to drop—there is empirical evidence around that—and pay rates and mileage rates go down. An internal market is created, so people jump around and there is no security for the future.

Worse than that, the equality impact assessment on the bill covers service users’ experiences, but there is nothing in it about the workforce. We know that gender, race and disability tend to be the areas that have equality dimensions to them. We have seen that in

Glasgow in relation to equal pay; contracting people out and then having to bring them back in has cost the council hundreds of millions of pounds. That contrasts with workers in other areas.

A full equality impact assessment must be done. That is linked to sectoral bargaining and the security and levelling out that will exist, but all that needs to be invested in. There is no way that all that could be brought together within the current cost envelope—even the set-up costs are eye watering if you add in some of the other dimensions. If things starts to decline, and we think that they will because of people going out to contractors, we will have to think about how to bring them back, because, as sure as fate, things will not work. The workforce will have to come back in—the examples are there.

The Convener: I bring in James Dornan. *[Interruption.]* Could broadcasting staff unmute his microphone? That would be super.

James Dornan: People usually try to silence my microphone rather than turn it on.

I come back to Tracey Dalling's analogy about the house. Is the bill not more like having an opportunity to purchase something and then design it once you see the space and where the opportunities are?

On the issue that was just mentioned—the 61p mileage rate versus 45p mileage rate—surely a national care service would create the opportunity to work closer together and resolve some of those issues. I completely agree that people doing the same job in the same area should not be getting different terms and conditions.

There has to be a long-term aim of ensuring that there is equality. That might not exist now, but surely there is an opportunity when you co-design. The Social Security (Scotland) Act 2018 is a good example. Co-design after that legislation was passed worked in that case. Why will it not work in this case?

11:15

Tracey Dalling: You would not buy a house without a survey, would you? What if it is structurally—

James Dornan: That is not what has happened here.

Tracey Dalling: You either want to ask me a question or you do not.

James Dornan: I do, but I want an answer.

Tracey Dalling: My answer is that you would not buy a house that you had not had surveyed and that could have all sorts of structural faults.

You also then need to trust the developer who comes in. The problem that we have is that there is such insufficient detail in the bill that we genuinely do not know how we can trust what the system will look like in the longer term. The bill leaves open all sorts of chasms.

Although we agree on the outputs—that people are paid the same, that the quality of care is what people need and is broadly consistent and that the providers are scrupulous, ethical and properly commissioned—we might disagree about the means by which to get there. You have heard from all of us repeatedly that we do not think that the bill is the way to do it.

Mary Alexander: We have talked about mileage rates and other inconsistencies in terms and conditions, and a point was made about doing the co-design work now. The fair work in social care group met for 18 to 22 months, I think, and took evidence from all parts of the social care workforce, including from employers, so we have that evidence. We also have the Feeley report and the evidence from the wide-ranging consultations that were done around that. Therefore, we knew what the problems were—we identified them—and we have had all the time in between to consider establishing a sector-level body, which is the fair work in social care group's recommendation, but that has not happened. The co-design process is going over a lot of the stuff about which we have already sat in numerous meetings going through all the challenges and issues.

Tracey Dalling mentioned procurement. I recently co-chaired a construction inquiry. There are a number of recommendations that the Scottish Government can implement that Westminster cannot interfere with, basically. For example, in commissioning procurement, the Scottish Government could require adherence to collective bargaining rates. It already requires anybody who gets public funding to pay the living wage, so there is a precedent that we can work with and build on.

The Convener: I will bring in Carol Mochan, who is online.

Carol Mochan (South Scotland) (Lab): My question might have been answered, but I will go back to it, if you do not mind, Mary Alexander, to clarify the point about sectoral collective bargaining. Are you saying that we know the steps that are needed to put that in place so, if we embed it in the bill—although we want to get it done before then—it would help us to progress the introduction of the national care service in a better way with the staff?

Mary Alexander: Yes. Look at some of the demands that we have made in the STUC submission and, indeed, at the union demands.

Sectoral bargaining is the number 1 priority. If sectoral bargaining arrangements were in place, many of the other demands, such as mileage payments and a wage of £15 an hour, would fall into place.

The Convener: We move on to questions about workforce from Emma Harper.

Emma Harper: There are real challenges right now. We know that there are issues with recruitment and retention. One of the issues that I have raised is the need for a national approach to standards of training and education. Would that help to support the message that social care is a worthwhile career and a great way to look after people? We know that, predominantly, it is women who are carers and that they often care for other people at the same time. Will what is set out in the bill on training and a standardised approach move us forward in supporting recruitment and retention?

Tracey Dalling: The workforce is regulated, so all of those dimensions are built into registration. Carers are required to be educated to a particular standard and to undertake continuing professional development. All of that is there, so I do not necessarily think that that needs to be the main focus.

A big issue was that a lot of workers had to pay their own registration fees, so there was a further financial burden. That has just changed as part of the local government pay settlement, which means that councils will now pick up the tab, but our fear is that, if workers find themselves being moved to a different employer, they might lose the ability to have the fees paid.

However, the fundamentals relate to basic rates of pay. The ceiling is unachievable; the workers are all stuck at rock bottom. For many of them, there is competitor employment in local areas. You are right that most carers are working women who live and work in their communities. That is the type of work that they want to do in their communities and, for the most part, they are happy to do it—until a new supermarket is built along the street, with better pay, and they have to move to where the money is. We need to do something about that.

We firmly believe that sectoral bargaining is key, because the issue is about not only basic pay but mileage rates and pension schemes. We are seriously worried about what the NCS will mean for pensions if large swathes of the workforce are transferred out and the scheme is diminished for those who remain in it. We have to put together an attractive package of employment measures to ensure that we are the employer of choice so that we can provide some of the most basic human rights and dignities to members of our community,

who deserve to have care delivered, in some cases, in their own homes by people who care about the work and who are fully trained, engaged and registered to the appropriate standard.

You might think that I have been critical about a lot of this, but the professional development side of things is not bad. Frankly, the focus needs to be on hard cash.

Cara Stevenson: Professionalisation is one of our key asks from the bill. Care workers are professionals, but they are not treated as such right now, and we would welcome change so that care workers feel that they are valued and are professionals.

A consistent training and development programme would be welcome, because, from an equalities point of view, no matter what area a person is in or what kind of workplace they are in, they should have access to the same training as everybody else who does the same job. We would definitely welcome that. The SSSC asks people to be trained to a certain standard, and we would expect the fees for that to be covered by employers.

One of the big things is that, in a professional sense, we have to move care on. Society still has the perception that care workers go in, dust the fireplace and then sit down and have a cup of tea and speak to the person being cared for. Care has evolved so much from that, but society's perception has not evolved with it. By offering training, we have a great opportunity to explain to society that care is a professional career, that we want to recruit and retain people and that we want them to be proud that they work in social care.

Roz Foyer: I want to add one final thing. In relation to the package of measures that we are asking for to make the employment worth while, we should consider care packages and the timing of them, because there have been cuts to care packages for care at home. We have asked for that to be addressed urgently, because it is about the job experience. We have people who are trained to a professional standard but who do not feel that they are able to carry out their role to an appropriate standard, given the resource constraints within which they are working. That has to be understood. Part of the issue is about money and the work being sustainable—and about not having to pay to work, as some of our members find themselves having to do at the moment—but part of it is about people feeling that they can actually do a job for the people whom they are trying to do a job for.

Some care packages have been cut back to the bone, and it is not a satisfying job experience for our members when they do not feel that they can give the appropriate level of care that they should

be giving. That has been another of our asks of the minister. As well as the asks on pay and conditions, our members need to be funded to an appropriate level to be able to do a decent job for the people whom they care for.

Emma Harper: My understanding is that there are 1,200 care providers in Scotland, and the bill proposes to have them meet criteria on issues such as salary, education and career pathways—the whole approach. That would mean that someone could work in Dumfries and Galloway or the Scottish Borders, because their career pathway and training would be transferable, no matter where they go. The bill proposes to include the provision of training and even the funding of it. Would it not be a good thing to have the 1,200 care providers meet certain equivalent and measurable criteria, so that we know the value of the care that is being provided and so that the carers are valued?

Tracey Dalling: Yes, that would be a good thing, but it is about enforcement. The contracts for the work, and therefore for the staff who will populate the service, need to be crystal clear that they are based on fair work. One thing that came out of the Feeley inquiry is that fair work should be the hallmark of an exemplar employer. I am on very safe ground in saying that not all of those 1,200 providers are exemplar employers. In fact, to be honest, with many of them, I wouldnae send them to the shop with a list, far less allow them to provide care in a local area.

Therefore, if there is going to be ministerial oversight, fair work has to be at the heart of the system. There is currently local oversight in councils, or certainly within IJBs. It is one thing for a provider to say what it is going to do and another thing for it to be monitored to ensure that it does that, and for there to be consequences if it does not. If a provider does not pay the Scottish living wage, it should not be in a position to bid for a contract and have it awarded. That should be out of the question—it should be out of the market.

We need to be careful, particularly if we end up with a commissioning and procurement environment around care, that we do not see further erosion of the provisions in contracts.

Mary Alexander: It is positive that there will be training standards across the piece, because our members tell us that training is sadly lacking at the moment as a result of staffing shortages. They are missing out quite a bit on training, so that needs to be better.

From a fair work point of view, the problem is always about the evidencing of the standards. There is a lot to be done in the fair work space. If someone is bidding for a contract, they need to provide the evidence that they are a fair work

employer. They need to show what that looks like and whether they have union recognition.

There is also the issue of monitoring, which frequently does not happen but really needs to happen. Are providers matching up to what they say that they are doing, and are they complying? If they are not, as Tracey Dalling said, there should be consequences. We should put in place that evidence gathering, monitoring and compliance work as part of the commissioning and procurement process to ensure that people who are not good are removed from the game. Sadly, that is lacking in procurement in general.

11:30

Cara Stevenson: I agree with my colleagues. As I have already said, the proposals on training and development are welcome, but there needs to be regulation around that to ensure that everyone receives the same standard of training and development, and there must be consequences if they do not.

One of the big issues in social care right now, which should be addressed in the bill, relates to agency staff. There are 1,200 employers, but there are also agency staff, and a lot of our workforce are leaving their present jobs to become agency staff, because they get £10.50 an hour working for a care home or £20 an hour working for an agency—in a cost of living crisis, that is a no-brainer. It is important that agency staff are brought into the training and regulation regime, too, because the permanent staff on the ground might have five agency staff showing up for a shift and, if they are not trained to the necessary standard, the permanent staff members will have to deal with all the more complex needs.

Roz Foyer: You talk about having all the different providers working to the same standards, and you suggest that that is a good thing. Of course it is a good thing, but we still have grave concerns about the profit element being part of the framework in the bill.

Earlier this year, the STUC published its “Profiting from Care” report, which showed that staffing resources in older people’s care homes are 20 per cent worse in the private sector than they are in the not-for-profit sector. That is a stark difference in the level of resource and service being provided. We have to look at those things, but we also have to address the fact that the difference is not surprising, given that we are talking about organisations that are making profits and diverting them out of the service. That means that the standards also have to cover the levels of resource that are being put into care and the quality of the service, as well as things such as training standards, pay and conditions.

The Convener: I see that Emma Harper is indicating that she wants to ask a follow-up question.

Emma Harper: It is just a wee short one.

The Convener: You can ask a wee short one, and then we must move on. I am doing my teacher stare.

Emma Harper: The bill says:

“the National Care Service is to be an exemplar in its approach to fair work for the people who work for it and on its behalf, ensuring that they are recognised and valued for the critically important work that they do.”

That is what we can build on—again, this is a framework bill. Do you agree that it is a good idea to have that statement about fair work in the bill? I direct that question to Roz Foyer, because she is nodding.

Roz Foyer: I absolutely agree that fair work has to be at the heart of the delivery of the national care service. The trouble with terms such as “fair work”, “the wellbeing economy” and “a just transition” is that, although they sound great, there is still a need to drill down into them and define much more clearly what we mean by them. Even public sector commissioning bodies mean different things when they talk about fair work—one Government department means one thing when it says it and another public body means something else. That can make a huge difference to workers.

We need to be much more clear about how people are implementing, evaluating and enforcing fair work. As has been proven in recent Fair Work Convention inquiries, the Scottish Government can now go much further in its commissioning processes to batten down some clear benchmarks that we need to be in place.

Although we agree that fair work should be at the heart of the service, we need more assurance about what the bill means by that term. It all sounds lovely, but I want to see what it will actually look like.

Gillian Mackay: I want to come back to something that Tracey Dalling and Mary Alexander mentioned earlier. We know that adherence to fair work principles by employers should be monitored, and that social care employers do not always uphold their responsibilities to their staff. How could the bill be strengthened in relation to oversight and regulation? What specific provisions, if any, would you like it to include in order to strengthen oversight or in relation to consequences for employers that do not uphold their end of the bargain?

Tracey Dalling: The whole principle of fair work cascades through ministerial duties, standards for commissioning, and procurement. I therefore play it back to you: ministers will have a specific duty to

ensure that they are exemplars of fair work, so if a minister has sign-off on commissioning and procurement, and unfair work persists, that has been authorised by the Scottish ministers. There is a responsibility on all of us in that regard.

It is key that we monitor, and report on, employment practices—who is doing what, and where and when and why. Some years ago, when the Scottish living wage was part of pay bargaining, the Scottish Government funded it. A social care employer in the area where I live just refused to pay it, although it was getting the money, so the council stepped in and took away the contract. That is an example of what was mentioned earlier. We need more of that.

When we identify such a thing, whether it is local or endemic, some steps and some scrutiny are needed—and, as I have already mentioned, some penalties. Frankly, if someone breaches the ethical commissioning, tendering and procurement process, they should never be allowed to darken the social care door again, unless they go away, rehabilitate themselves and come back to show that they can do things fairly and squarely. There is no place in care for some of those practices, which have a huge impact on the workforce and, therefore, on the recipients of care.

That is what needs to happen. Ethical commissioning strategies in the care boards’ strategic plans need to be as robust and transparent as possible.

The Convener: Paul O’Kane has questions on the transfer of functions and staff.

Paul O’Kane: In the initial questions, we started to touch on many of the issues about the transfer of staff, and the concerns that trade unions have about the number—75,000—and the potential knock-on effects. I will therefore focus on your involvement and understanding of that process—in particular, on TUPE. When were trade unions consulted by the Government on the idea that the bill might involve such a transfer of staff, and that it might involve a TUPE process?

Tracey Dalling: Just now, Paul—if that was an invitation.

Paul O’Kane: Okay.

Tracey Dalling: Until now, we have not been consulted on that. It is difficult to start such a consultation when it is not known what the final destination is to be. If, for example, we know that the tendering process will result in adult social care residential homes in the Lothians being run from a particular date by A N Other employer, we can start that process. However, at this stage, we have no idea exactly what the implications will be. Our fear is that 75,000 staff will end up working for care boards, or will be contracted to other

employers on a hired-out basis to deliver social care for a care board, and that we will see one TUPE transfer leading to another TUPE transfer leading to another.

At no point does a worker take their pension with them. TUPE does not cover pensions—it covers just the bare terms and conditions, which will be eroded over time. There has been no formal consultation of Unison over the transfer of 75,000 staff to care boards.

Mary Alexander: As Tracey Dalling said, there has been no formal consultation, and it has been suggested that that might not happen, so it might or might not happen. However, the situation is one of huge uncertainty for our members. There have been discussions with the Convention of Scottish Local Authorities, and you will have seen that the unions and COSLA have put out a press release calling for reversal of that provision, for all the reasons that Tracey has outlined: the fears of the staff; the potential bounce from a care board to somewhere else and back again; and the fact that pension provision will be lost because, as Tracey has said, pensions are not covered by TUPE.

The proposal is huge for us and for the many people who would be affected by it. We think that the money that will be spent on the national care service should go to local authorities now, so that it can be used to try to sort out some of the crises that we have in the sector, rather than proceeding with the national care service, because there is a lot of uncertainty and we do not really know much about it.

Cara Stevenson: My view is the same as that of my colleagues. We have not yet been told anything formal, but we have been told by the minister that there is no intention of having that in the bill but that it could be a subject for co-design when we get to that point.

Again, that reinforces that when there is nothing solid, people start to make their own assumptions. I have a good example from a meeting that I had yesterday with a civil servant who mentioned that our briefing paper goes down the route of assuming that there would be TUPE from local authorities. He said that it was a bit presumptuous of us to assume that, and that that is not what the bill says. At that point, our response was that the bill does not say that, either. That is where we have concerns: when there is a framework, people start making up their own minds about what it means because there are no guarantees or outcomes from the co-design process, as yet.

Paul O’Kane: Thanks for those responses.

The policy memorandum speaks about workforce, employment and contractual arrangements being the subject of secondary legislation, which includes the potential transfer of

staff from local authorities. Would it be fair to say that at no point did the Government approach you and say that there is the potential in the bill for 75,000 staff to transfer, and that that might involve a TUPE process?

Tracey Dalling: That is fair. However, it was immediately obvious from the first reading of the bill. Nobody came to us in advance of the bill’s publication and said that there was a risk, a likelihood or a certainty of that happening. None of the above applied: we were able to read it for ourselves only when the bill was published.

Paul O’Kane: I find it extraordinary that no one approached the trade unions and said that that would potentially be the process.

I will ask about finance. A massive structural change such as we are discussing brings with it a financial burden. There has been a lot of comment in this committee and others about the financial memorandum that accompanies the bill—we have heard it being referred to as a blank cheque. I am keen to get your sense of what that could mean when it comes to the local authorities’ finances.

Tracey Dalling: It would need a blank cheque to bring all 1,200 social services employers under one umbrella and level up everyone’s pay so that they are paid at the same rate. That would be fantastic, but it would need a blank cheque. It would be hugely expensive, and bringing everyone together and harmonising all their terms and conditions would be hugely time consuming. The different social workers in Scotland who work in the 32 local authorities are paid different rates and will have different conditions attached to their employment. There would need to be harmonisation, which would need to be fully funded. There is no blank cheque, however: we are not expecting one and there never has been one.

I have dealt with multiple harmonisations. I was at the Local Government, Housing and Planning Committee before this meeting, where I spoke to some old timers like me who remember the local government reorganisation in 1996 and how much money it took to create the 32 unitary councils and to harmonise all the conditions of employment. That took years; it was painful and we still remember it. It is an expensive process. It would be our idea of utopia to have everyone on the top line and on higher rates of pay, but we recognise that that is not realistic.

The Convener: We will move on to finances, in more detail.

Sandesh Gulhane: We are hearing that the cost of setting up the NCS could be up to £1.5 billion. Do you think that such an expensive restructuring is the best way to improve social care delivery? I will start with Tracey Dalling.

11:45

Tracey Dalling: No—and I think you have heard from us why. The conservative estimate is that it will cost half a billion pounds. We have no idea what the actual costs will be, but we understand fully that such things are never quite as they first appear and that costs often escalate. This is entirely the wrong time to be spending upwards of £1.5 billion on structural change when we are facing the most inordinate pressures on our everyday NHS services and our social care services. The answer is no.

Sandesh Gulhane: When you say “conservative”, you do not mean the party. Is that correct?

Tracey Dalling: I mean conservative with a small “C”.

Sandesh Gulhane: I will stay with you, Tracey, because I want you to be clear. I do not want to put words in your mouth, but given what I am hearing, this is my question. Do you trust that all the things in the bill will be delivered at that cost, and do you believe that staff will be looked after?

Tracey Dalling: No.

Sandesh Gulhane: Could you explain why?

Tracey Dalling: Trust takes time to develop. I do not think that there is an inherent lack of trust of the Scottish Government. You have heard me describe some good examples of trust in the past, but the answer to your question is no.

It goes back to the discussion of buying something off-plan. I need more guarantees and detail. I would not be spending that amount of money. I rarely spend a huge amount of money on anything without being clear about what I will be getting for my money and where the value is. There is insufficient detail on so many fronts in the bill for me to say that I have confidence that, for example, if we just take the Feeley side of things—the sectoral bargaining—it will all work out as we would like it to.

I worry that we will lose even more of the workforce as social care becomes the least attractive place to work and that that will end up costing even more money. Simply recruiting staff costs money: placing the ads for staff costs money, never mind the cost of training, developing and retaining them. There is really nothing that fills me with confidence, at this stage.

Sandesh Gulhane: I have a final question, but would you like to come in on that one, Mary?

Mary Alexander: Yes. We firmly believe that the money that is to be spent would be better spent on addressing the immediate issues in the sector, given the cost of living crisis. Our survey of over 500 members found that they cannot get to

the end of the month without running out of money and borrowing from financial institutions or family and friends. There are very serious issues that we have discussed, so the money would be better spent now, given where we are in this country with the financial crisis and the economy. It would be better spent on addressing the immediate issues, then we could pause and the Government could listen about the challenges and issues that we are highlighting, and we could consider solutions and try to get actions lined up, such as delivering sectoral bargaining.

Roz Foyer: I want to back that up. We would like to see the money that is clearly being put aside for the change being used to address the cost of living crisis. The First Minister said that we are facing a humanitarian emergency. We think that part of the solution to that would be to divert money in the budget to those who need it most. That means putting money into low-paid workers’ pockets now; it means giving people what they need to get through this crisis situation.

We could use the time over the next couple of years to get the provisions in the bill right, because at the moment it is like buying off-plan without a plan. We could develop and co-design a plan that we could all see by getting the issues out in the open, then we could move forward. In the meantime, we could use some of the money that has been earmarked for the service to deal with the crisis that is right under our noses, by putting money in workers’ pockets.

Carol Mochan: I am really interested to explore the key—[*Inaudible*.]—of profit in social care that was mentioned at the start of the evidence session. I am very impressed with the STUC report, and I suggest that all committee members read it. I hope that it is part of our evidence. Could Roz Foyer and all the other witnesses suggest what key aspects of that we should consider? I know that most of the trade unions contributed to that work.

The Convener: Who would like to go first?

Roz Foyer: I have covered quite a bit of that. As has been mentioned, we are concerned about how much of the money from fees that people pay for care is diverted and sucked out before it is used for service provision. We found that it is up to 30 per cent in some of the big private sector providers, compared with more like 3 per cent in not-for-profit providers. That is a huge difference and the money could be retained to deliver front-line services, if we were to take a different approach to designing a national care service. Profits should have no place in delivery of social care, but at the moment, sadly, they do. That is part of the commercial model that is used in far too many parts of the sector.

We also found that public sector workers are paid on average £1.60 an hour more than care workers in the private sector. As I have said, staffing levels in private sector older-people care homes are 20 per cent lower than those in non-private-sector institutions. I do not believe that we can ignore those big differences when we consider how to take forward and design a national care service that is fit for purpose for the future. Money is tight, so why do we allow money that could be used for front-line services to go to profiteers?

The Convener: We will move to final questions from Emma Harper and Stephanie Callaghan, then we will need to wind up.

Emma Harper: My understanding of the financial issue is that the projected costs for the bill are estimates that are already being used for health and social care. This is not £1.5 billion that is coming from somewhere else; it is for care delivery that is already happening on the ground. That might be worth picking up.

My questions are about training and research. We have covered many of the issues around the necessity for training to be standardised, which could be part of a national approach to supporting staff. This is about what people who are in receipt of care want—the folk who are being cared for and the carers who provide the care want a national care service. They can see what could be fixed and they know what works. We know that self-directed support works really well in some places but doesn't in others. The creation of the national care service is about helping to support people on the ground, because that is what people want. I am interested in that and in the training that will deliver what folk are asking for.

Roz Foyer: I will give an initial response then pass on to my colleagues. We also want a national care service, but there is no point in its being called a national care service when all that we are talking about is a national commissioning service. Let us have a transformative national care service, and let us take the time to do it properly and do the name justice in what we deliver. That means bringing the workforce with you, working to get the service right and listening to workers' concerns.

On the financial part of the issue, what Emma Harper said is not my understanding, but if what she says is right, that causes me even more concern because it is completely and utterly unrealistic to expect that a national care service could be created within existing budget allocations.

Emma Harper: I know that there will be additional money, but I am considering the complexities of the financing of care and care delivery through 1,200 providers and the people who provide care at home and in residential

homes. The whole situation is really complicated, so the bill is looking to iron out the approach to that.

Roz Foyer: The fundamental point is that, if we are going to have the sort of care service that our citizens require and deserve, we will need significant front-line investment, which means new funding to deliver on pay and conditions and for resources, so that care users can get a decent level of service.

We can call things whatever we want, and we can organise them in whatever way we want, but we need that additional funding. That needs to be realistically taken account of.

Mary Alexander: I echo what Roz Foyer said. Other bodies, including Audit Scotland, have queried the finances and the provision that has been made. I would not say that they said that it was “unrealistic”—I do not think that is the word that was used—but they queried whether the projections were sensible for delivery of the national care service. As Roz said, the whole point of the national care service is to drive up standards and quality of care, and to address workforce issues, but that cannot be done within the cost envelope that has been set out. More resource needs to be put in and greater understanding is needed of the problems and the solutions to them, which all need to be costed.

Stephanie Callaghan: Cara Stevenson spoke earlier about the fact that care workers are at breaking point—you were passionate and quite emotional about it—because they have faced an incredibly difficult time. Nurses are facing an equally tough time. However, nurses have a certain image, because people appreciate that nursing is a real vocation and that it is a very skilled job. There is a huge amount of appreciation for nurses, which social care workers, perhaps, do not always get.

Therefore, I am interested in what the benefits and risks might be of a prerequisite that prospective social care staff have qualifications. I am also interested in how we might attract young people into the workforce and show them that it can be a worthwhile and enjoyable job.

Cara Stevenson: That is about all the things that we have spoken about today. Our key asks in respect of how to make social care more attractive are a starting point. The problem is that new and young people who come into the care workforce are met by a line of staff who are exhausted and undervalued, which rubs off on them right away. That is why we want reform in social care to make them professional workers, to ensure that their training and qualifications are up to date, and to ensure that we pay them a professional wage—a minimum of £15 an hour. We also want people to

be proud to work in care. We need to bring the workers along with us because, right now, the workforce again feels that those are empty promises.

I go back to Covid and provision of personal protective equipment. Care staff were told that they did not need some PPE provision to do their jobs. They were told, "That's fine—you don't need that. Nurses need that", and the result was that a lot of care workers died. That is the bottom line. We are now asking people to put trust in building the care sector again, which—as was mentioned by my colleague—will take time and a lot of hard work. It does not come down to just money; it comes down also to putting the time and resources into making workers feel valued and part of something.

The Convener: We must round up the meeting. I thank our four witnesses for the time that they have taken to take us through their views on the national care service.

In the committee's next meeting, we will continue our scrutiny of the bill with two more evidence sessions.

12:00

Meeting continued in private until 12:25.

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