



OFFICIAL REPORT
AITHISG OIFIGEIL

Local Government, Housing and Planning Committee

Tuesday 29 November 2022

Session 6



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LOCAL GOVERNMENT, HOUSING AND PLANNING COMMITTEE
30th Meeting 2022, Session 6

CONVENER

*Ariane Burgess (Highlands and Islands) (Green)

DEPUTY CONVENER

*Willie Coffey (Kilmarnock and Irvine Valley) (SNP)

COMMITTEE MEMBERS

*Miles Briggs (Lothian) (Con)

*Mark Griffin (Central Scotland) (Lab)

*Paul McLennan (East Lothian) (SNP)

*Marie McNair (Clydebank and Milngavie) (SNP)

*Annie Wells (Glasgow) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Tom Arthur (Minister for Public Finance, Planning and Community Wealth)

Mike Burns (Granite Care Consortium)

Cara Davidson (Scottish Government)

Stephanie Fraser (Cerebral Palsy Scotland)

Liam Kerr (North East Scotland) (Con)

Andy Kinnaird (Scottish Government)

Sophie Lawson (Glasgow Disability Alliance)

Andy Miller (Scottish Commission for People with Learning Disabilities)

Henry Simmons (Alzheimer Scotland)

Fiona Simpson (Scottish Government)

Adam Stachura (Age Scotland)

Carrie Thomson (Scottish Government)

Hannah Tweed (Health and Social Care Alliance Scotland)

CLERK TO THE COMMITTEE

Euan Donald

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Local Government, Housing and Planning Committee

Tuesday 29 November 2022

[The Convener opened the meeting at 09:30]

Decision on Taking Business in Private

The Convener (Ariane Burgess): Good morning and welcome to the 30th meeting in 2022 of the Local Government, Housing and Planning Committee. I ask all members and witnesses to ensure that their devices are on silent and that all notifications are turned off during the meeting.

The first item on our agenda is to decide whether to take items 4 and 5 in private. Do members agree to do so?

Members indicated agreement.

National Planning Framework 4

The Convener: The second item on our agenda is an evidence session on the national planning framework. From the Scottish Government we are joined by Tom Arthur, the Minister for Public Finance, Planning and Community Wealth; Fiona Simpson, who is the chief planner; Andy Kinnaird, who is the head of transforming planning; Cara Davidson, who is the head of environment and energy; and Carrie Thomson, who is the head of development planning and housing. I warmly welcome you all.

This might be the first time that we have all been in the same place during the national planning framework 4 process, which I know has been a great deal of work. It was around this time last year that it was being brought in, and it is tremendous to see that you have taken on board a great deal of feedback. This is such an important piece of work, as we look forward to shaping the next 10 years in Scotland in response to the climate and biodiversity emergencies. I also welcome Liam Kerr, who is attending in his capacity as a member of the Net Zero, Energy and Transport Committee.

I invite the minister to make a brief statement.

The Minister for Public Finance, Planning and Community Wealth (Tom Arthur): Thank you, convener, and good morning to the committee.

I very much welcome the opportunity to come back to address the committee on NPF4 again, now that we have our revised draft before the Parliament. I am delighted to be at this stage of the NPF4 journey. As you recognised, convener, getting to this point has taken a mammoth effort and commitment from many people, to all of whom I am exceptionally grateful. It has taken three years, three wide-ranging and wide-reaching public consultations, extensive stakeholder engagement and thorough parliamentary scrutiny, on which the committee led earlier this year.

I gave my commitment to listen carefully to what people were telling us about the earlier draft and to take the time needed to get NPF4 right, both in its intent and in its structure and specific wording. We reached the revised version by engaging with others. We listened, we learned and we changed the document where needed. I was delighted to hear the feedback that was presented to the committee last week, which overwhelmingly recognised the significant improvements in the clarity and focus of NPF4 and its policies. I have also been delighted by the substantial support from across society for the change of direction in how we plan Scotland's places and communities. It is a rare thing for any planning strategy to unite

so many different interests in the way in which NPF4 has.

Of course, that is not to say that we enjoy universal agreement on everything, nor could we ever expect that in planning. A planning document will inevitably generate a range of views. There will always be those who support and those who do not support any given planning policy. In the revised draft, we have made choices that are informed by all those views. In doing so, as the committee will recognise, it is not possible to please everyone. We are charting a new course for Scotland's development, with climate, nature and a wellbeing economy central to our thoughts and decisions.

NPF4 is about less compromise and a clearer commitment to net zero. As Professor Cliff Hague noted here last week, we now do not have much choice about having that focus. We will therefore not shy away from the challenges that society faces, nor will we shy away from the difficult decisions that may need to be made.

NPF4 will ensure that Scotland has a truly planned system. There are different views on how far planning policies can and should go towards prescribing the outcome of a planning decision. That is, perhaps, because, too often, decisions have been made that compromise on the development plan. NPF4's strong policies will provide more certainty and confidence for all of us, so that if proposals are supported by a sustainable locally driven plan that has been developed with communities, we can all have more confidence that they will be delivered on the ground.

Although NPF4 is now clear in its intentions, there will still be some flexibility at the local level, and each case will still be treated on its own merits. That is hard-wired into our planning system, which allows and, indeed, requires professional judgment and discretion to be applied.

I know that there are some concerns about implementation and how competing policies will be reconciled in specific cases. In every planning decision, there will always be planning policies that support the proposal and those that do not. That is why we always stress the importance of reading NPF4 as a whole. It is also why the planning system is operated by professionals whose job it is to apply professional judgment and provide sound advice to inform democratic decisions. I know that, if decisions are backed by strong planning policy that is clear in its intent, Scotland's planning authorities will be up to the job. Indeed, the strong focus on well-functioning, healthy and high-quality places strongly featured across NPF4 is why people get into the planning profession in the first place.

We are nearing the end of the beginning for NPF4, and I am keen that we get on now and move to implementation. In a few weeks, I will ask Parliament to give its approval, and, should that be agreed, we will move swiftly to adoption and give NPF4 its new statutory status as Scotland's development plan. I do not underestimate the scale of the work that lies ahead to deliver NPF4. That is where my officials and I are turning our focus. After several years of policy development and legislative change, we are ready to shift our attention fully to delivery. However, we cannot deliver NPF4 alone: it will take further wide-reaching cross-sector collaborative commitment. The Scottish Government will be a key actor in driving and supporting that implementation. Monitoring will also, of course, be vital. This is the first time that Scotland has had a standard set of national planning policies. It will take some time to establish whether the policies are being implemented as intended, where there is room for improvement and where there is a need for the detail to be adjusted. We will monitor that carefully while supporting the interpretation of policies. We will also work with everyone involved in planning to build skills and share experience, particularly, in the first instance, in the newer areas of policy, such as climate change, the nature crisis and community wealth building.

The committee is well aware of the resource pressures facing the planning system, our authorities and the wider public sector. I reiterate my commitment to progressing the work that we are doing with our partners through the high-level group on planning performance, with the planning profession and with our authorities, to raise a positive profile of planning and make progress on its effective resourcing.

We have made clear throughout our work on NPF4 exactly where our priorities lie for Scotland's future development. Our task now and in the vote to come is to consider whether the NPF4 is doing enough to address the global climate emergency and nature crisis and doing it in a way that improves our places and builds a sustainable wellbeing economy. We cannot afford to miss the opportunity to make real and progressive change. I have welcomed and appreciated the committee's support and hard work in its careful scrutiny of NPF4, and I look forward to your questions this morning in what, I am sure, will be an interesting and stimulating discussion.

The Convener: Thank you, minister. You covered a range of things in your statement. I want to begin by focusing on how evidence and feedback on the revised draft will be used. During last week's session, the planning stakeholders suggested several possible improvements to NPF4. How will those and other stakeholder

suggestions be taken on board before NPF4 is formally adopted?

Secondly, can you commit to further engagement when NPF4 is in place to improve areas that do not work as intended, perhaps through a chief planner's letter?

Tom Arthur: The answer to your first question lies in your second question. As I said in my opening remarks, we have arrived at this point through an extended period of work—there have been more than three years of work to get to this point—and the intention now is that the NPF4 draft, as revised, which is before the committee for consideration today, will be brought to Parliament for a vote. Under the legislation, a parliamentary vote is required before ministers can adopt. We will bring the revised version to Parliament for a vote, so there is no scope at this juncture for changes or amendments. To do so would be to effectively reopen the process and delay getting on with the work of implementing and delivering NPF4.

With regard to your second question, engagement, collaboration and partnership working are absolutely essential to the delivery of NPF4, so we have set out in the first iteration of our delivery programme how we will work with partners to help to achieve that. Of course, the delivery programme will be reviewed after six months, and I am grateful to those who have already offered comments about what changes they would like to see and what additions they would like to see in the delivery programme. We will engage on that, and, of course, as I referenced in my opening remarks, through our monitoring process we will be able to learn how the policies are delivering on the ground. We will begin to see how that impacts on the development of new local development plans, and it is through that process that we will then be able to evaluate the impact that NPF4 is having.

There is provision in the Planning (Scotland) Act 2019 to amend NPF4. We will introduce those regulations next year, but, clearly, any changes to NPF4 would have to be evidenced and carefully considered. The priority and the focus now is on the adoption of NPF4, subject to Parliament's agreement, and then its implementation and delivery, which will be done in a genuine spirit of collaboration and partnership working.

The Convener: Thanks very much for that response. It is really heartening to hear the continued commitment to engagement and collaboration.

I will touch on resourcing and biodiversity, because I have heard you talk a number of times in conversations about NPF4 about the fact that climate and biodiversity is the headline that we are

trying to attend to. Last week, Bruce Wilson, who is the head of policy and advocacy at the Scottish Wildlife Trust, said that there was a lack of resources to measure biodiversity and that that threatened the ability of planners and developers to understand what is at risk and how they must modify developments to safeguard biodiversity. The increased workload of that additional responsibility is further augmented by the shortages of planners across Scotland. Therefore, how will the Government ensure that local authority planning departments are resourced and supported to properly evaluate and monitor the impact of developments on biodiversity?

Tom Arthur: As I indicated in response to questions on my statement in Parliament last year when I introduced the draft NPF4, the resourcing of our planning system is a priority for me. To realise the ambition and vision in NPF4, we need a properly resourced planning system. The actions that I have taken since then include increasing planning fees from April this year, which there is already some evidence to suggest is feeding through to additional positions in some planning departments.

We are working through the high-level group to support collective and collaborative work to address challenges around recruitment and retention. For example, the future planners project, which I was delighted that the Scottish Government was able to provide financial support to, has developed a report that has provided a series of recommendations on how we can recruit more people into the planning profession as well as retain people in the planning profession.

I should note that the challenges that Scotland faces around recruitment in our planning sector are not unique to Scotland—they are much wider challenges. However, I am clear that it is the responsibility of the Scottish Government to do all that it can to support our planning authority partners to ensure that we have a well-resourced planning system. We have taken action towards that through higher fees, and we continue to take action, through engagement and dialogue, towards a model of full cost recovery. That is an ambition, but it requires careful consideration to avoid unintended consequences.

To ensure that we have a sufficient workforce in our planning sector, we are taking action through the future planners project with our key partners to assist in making sure that we maximise the number of people coming into and staying in the profession.

09:45

My final point is to recognise that NPF4 provides an opportunity to inspire many more people to

choose planning as a career. Planning is a wonderful career choice for any young person thinking about what they want to do in life. It provides an opportunity for people to make a huge and impactful difference not just to their own communities but to the country as a whole. Planners will be at the forefront of shaping our places and ensuring that we can meet our obligations to reach net zero by 2045.

On the issue of biodiversity, Cara Davidson may want to add something about the specific support provided there, particularly given the new policies that are coming online.

Cara Davidson (Scottish Government): I can add that the Scottish Government has commissioned research to explore options for a biodiversity metric or other tool and will be working with NatureScot on a programme of engagement as that work moves forward.

The Convener: Will that be linked into the biodiversity strategy and the natural environment bill? Will there be a cross-connection there?

Cara Davidson: It is certainly a cross-collaborative exercise across Scottish Government, including colleagues leading on those workstreams, and NatureScot. It is absolutely a joined-up exercise, and we are keen to engage across the piece as that work moves forward.

The Convener: It is good to know that that is happening. It seems to be a critical tool.

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): Tom Arthur spoke at great length about NPF4, which was very welcome. We cannot do it alone. It is not a stand-alone document. It will be wide-ranging, cross-sector and so on. We have had some of that discussion over the time that we have looked at the progress of NPF4.

Last week, Professor Hague widened it out to talk about how it might interact and interface with other Government departments. We heard, too, from our Irish Government colleagues. Their departments set out how they will deliver their priorities within their own national planning framework. Do you see that happening in Scotland? Will other Scottish departments be able to demonstrate how their policy delivery interfaces and interacts with NPF4?

Tom Arthur: I will make two points. First, on process, this has been a cross-government endeavour. More than 200 officials have been involved in the development of NPF4. Of course, it has been a collaborative effort across wider Scottish society and the Parliament with the process that has got us to this stage. By design, it reflects the full gamut of Scottish Government policy, but, beyond that, planning, by its nature,

touches on every aspect of our lives from the homes that we live in, the places where we work, where we go for leisure and recreation and the spaces that give us a sense of identity, to how our economy operates and functions. Planning is inherent in every aspect of how modern, contemporary society functions, so it is inevitable that, in any work of this stature and magnitude, every aspect of Government policy will have had input. Clearly, there is a focus on the climate emergency and the nature crisis, but that is a lens through which all other policies have been considered. That is what NPF4 seeks to bring together.

Willie Coffey: You will have seen that our colleagues in the Economy and Fair Work Committee have released their report on town centres this morning. Many of the themes in that were covered during our discussions, particularly on how we might improve town centres. Some of the comments from our members and those giving evidence to us over recent months are about those issues too. For me, it is a good example of how it must cross cut and embrace issues that are coming out of a sister committee's report. Is that something that you support and hope to develop over the time that NPF is in place?

Tom Arthur: Absolutely. I was delighted to give evidence to that committee earlier this year, and I am grateful that the report has been published. I have not had an opportunity to consider it in full yet, with its having been published just this morning, but, looking at the headline items that were covered, it is encouraging to see such unanimous support for and recognition of the key and vital role that our town centres play for our communities and our country overall. That is reflected in NPF4, which sees our town centres and, indeed, our other local centres, city and commercial centres as key strategic assets.

I am sure that it is recognised throughout the work that the committee has undertaken in looking specifically at town centres—as was recognised in our town centre action plan, which we published earlier this year, and, indeed, as is reflected in NPF4—that there is no single lever that we can pull to address the challenges that our town centres face. It needs a collaborative joined-up approach. Planning has a huge role to play, and so does fundamentally reorganising and rewiring how our local economies work. Community wealth building—which we will have a lot more to say about in the new year—can have an important role to play in ensuring that our economies and local communities retain more wealth. That, in itself, will support vibrant and flourishing town centres.

Willie Coffey: Thank you very much for that. I hope that I can come back in later, convener.

Miles Briggs (Lothian) (Con): Good morning to you, minister, and to your officials, and thank you for joining us. You mentioned that NPF4 has been a cross-Government endeavour. I welcome the positive and constructive nature of the discussions that we have had, but I am concerned about where housing sits in NPF4 and the fact that the housing crisis is not necessarily being addressed. I have a few specific questions on that. How does the revised NPF4 address the issue of potential underdelivery of land in the pipeline? Is there any trigger in place if land is not being brought forward?

Tom Arthur: I will take one question at a time. First, the Government recognises the centrality of housing. With NPF4, we seek to move the debate on from being one about numbers to one in which we focus on quality of place. A quality home does not end at the front door.

Specifically on numbers, having the minimum all-tenure housing land requirement—I realise that the committee fully understands that that is a floor rather than a ceiling—can help to provide greater certainty. However, it is also important to recognise the role that local development plans will play. As we work towards the introduction of the regulations that will commence new-style local development plans and accompanying guidance, I am committed to engaging with stakeholders, Heads of Planning Scotland and industry to ensure that there is clarity. That will play a key role.

I ask Carrie Thomson to address the question on triggers and issues of underdelivery.

Carrie Thomson (Scottish Government): We set out in NPF4 that, where there is underdelivery of housing, the longer-term sites that are allocated can be brought forward. The pipeline is split into three stages: years 1 to 3 are short term, years 4 to 6 are medium term and years 7 to 10 are long term. We have also asked for plans to allocate sites beyond 10 years so that, if delivery is not happening early on, those longer-term sites can be brought forward.

Miles Briggs: I will give an example from my area in Edinburgh. Eighty per cent of the local development plan land that is allocated is brownfield site, and 80 per cent of that has businesses on it, some of which are not aware that the land is allocated—the Edinburgh Dog and Cat Home is also in that situation. There is no plan for where those organisations will be moved to. In Edinburgh, where the housing crisis is acute, I do not see where the land will come from. I hoped that a mechanism would be put in place to address that problem. As far as I can see, the land will not come forward, at least within the seven-year period. There needs to be a mechanism for

adjustment when we see a problem clearly on the horizon, as is the case here in the capital.

Tom Arthur: I stress that, although we are considering the NPF4 today, local development plans will have a very important role to play. NPF4 will allow for LDPs to be less characterised by written policy and more focused on spatial strategy. We will, of course, monitor implementation and how NPF4, ultimately, is delivering on the ground. There will be a continuous process of engagement and monitoring. That will be a learning process in itself because, as I said in my earlier remarks, we have never had a national statutory planning framework before.

We will engage ahead of the introduction of the LDP regulation and guidance. If NPF4 were in any way not delivering what we would want, of course, we would take action, but it is important to recognise the significant role that LDPs have in that.

Andy Kinnaird might want to come in to offer some views and information on what we are doing to work towards new-style LDPs and the guidance that we will provide. I know that stakeholders have expressed a concern about the transitional arrangements. I would be grateful if you can provide some information on that, Andy.

Andy Kinnaird (Scottish Government): Sure. This is the perfect example of how we need to make sure that we do not look at NPF4 in isolation but look at planning reform as a whole and how the NPF and local development plans will work together. For that reason, this time last year, we ran the consultations on NPF4 and the new local development planning system at the same time, because they are so closely interlinked. Likewise, coming into the implementation phase, the links are there for all to see.

Assuming that NPF4 is approved and then adopted by ministers, we will want to move quickly to bring the new local development plan regulations into play. The authorities are looking to get work under way on their LDPs. At the point of adoption of NPF4, we will produce a bit of guidance on the transitional arrangements for how that will fall into place. A couple of years ago, we published guidance on how we expected the transitional matters to work. Authorities that are already working through their existing local development plans will continue to do that and see that through to completion, while the others can get started. It is a logistical process that flows from getting NPF4 through, to laying the regulations for LDPs. The guidance will come with that, which will include thematic guidance on implementing NPF through LDPs.

Tom Arthur: It is important to bear in mind that central to the housing policy is getting back to a plan-led system. That is absolutely essential for developing the kind of communities that we want and for ensuring consistency with our obligations and, indeed, the policies in the document that address the climate emergency and the nature crisis. As I said, I will engage closely with the house-building sector, and we will have a programme of monitoring that will involve regular engagement. As I also indicated in my opening remarks, as a Government and as a planning, architecture and regeneration division, we are moving from the phase of policy development and legislative change into delivery, and part of that will include a lot more engagement with planning authorities and wider stakeholders.

Miles Briggs: Thank you—that is helpful. We have heard all sectors ask for transitional guidance, so it is good to have that commitment on record.

The committee has also heard concerns about a flood of local development plans being published shortly after the adoption of NPF4. What steps is the Scottish Government taking to ensure that local development plans will be phased in conjunction with NPF4?

10:00

Tom Arthur: To an extent, that will happen naturally. About five authorities are in the process of completing their LDPs using the existing arrangements. We envisage that, within about five years, all planning authorities will have adopted the new-style LDP. However, the pace at which they do that will be determined by a number of factors: the age of existing LDPs; the particular impacts of new policies on their areas; and the capacity in their teams. We will, of course, engage closely with authorities to understand their plans, and the planning and environmental appeals division will similarly assist them in their business programming.

I recognise the point, but it should be recognised that it is not unusual for authorities to move at different paces, reflecting their particular circumstances.

Willie Coffey: I have a supplementary question. If a council is in the process of updating its local development plan but has not quite completed that before NPF4 is adopted, what will apply locally in planning decisions? Will it be NPF4 or the council's current LDP? Will the guidance make clear which will apply?

Tom Arthur: As set out in the legislation, when NPF4 is adopted, the development plan will consist of NPF4 and the local development plan, but NPF4 will take precedence over any existing

LDP. Once new LDPs come online, that situation will change, as they will be a more up-to-date reflection of policy. After NPF4 is adopted, if there is a conflict between it and an existing LDP, NPF4 will prevail.

Mark Griffin (Central Scotland) (Lab): In previous meetings, the committee raised issues around a potential capital investment plan. Essentially, that was to allow us to scrutinise how the ambitions of NPF4 could be met. Will the minister set out why a decision has been taken not to include a capital investment plan? Might the Government reconsider that?

Tom Arthur: I recognise that some stakeholders have taken an interest in that. The delivery programme sets out the existing funding, whether it be through the infrastructure investment plan, the place-based investment programme, the vacant and derelict land investment programme, our strategic investment in transport or the investment in housing. All of that will contribute to delivering the ambitions of NPF4. Therefore, there is a range of existing investment plans with which NPF4 aligns. As those plans go on to further iterations, NPF4 will help to inform that.

That speaks to the importance of the delivery programme being a live document. As the funding landscape changes—unfortunately, in the circumstances that we face, our funding landscape can be volatile as a consequence of how devolution and the fiscal framework operate—it is important to have that flexibility. However, through the delivery plan, we will be in a position to demonstrate how existing and new funding streams, as they emerge, align with the ambitions in NPF4. I recognise that there is a call for a neat, concise and specific capital investment plan to be published alongside NPF4 but, in essence, the delivery programme captures that intent.

I ask Fiona Simpson whether she wants to add anything.

Fiona Simpson (Scottish Government): Obviously, we have proposed the planning, infrastructure and place advisory group in the delivery programme. Alongside that, we have previously established the infrastructure delivery group, which involves private sector infrastructure providers as well as the public sector. That reflects the complexity of the picture. It is not as simple as a single capital investment plan that is fully funded by the public sector; it is about engagement with the private sector, too.

Tom Arthur: That is the key point. It is not solely public money that will deliver on NPF4—the private sector has a huge role to play. Even in the public sector, there is a mix between Scottish Government and local government funding. It is quite a complex funding landscape. We seek to

present, on the public sector side, the money that is available through existing funding streams and how that aligns with the ambitions and principles of NPF4.

Mark Griffin: I will move on to another area. You have touched on the MATHLR figures. I want to bring it back to a stage before that, and to the housing need and demand assessment tool that informs those figures. Last week at committee, we heard contrasting evidence from witnesses who said that the HNDA tool was not fit for purpose because it both underestimated and overestimated figures. I am also concerned that it does not fully take into account the number of concealed households out there, which is a potential obstruction for young people who, clearly, have both a need and a demand to go out and make their own way. I wonder whether, given those conflicting views from witnesses, there is enough confidence in that tool and whether the work that has informed the MATHLR figures is robust enough.

Tom Arthur: I will ask Carrie Thomson to come in, in a moment. We have taken an evidence-based approach, and I think that you will recognise that that is absolutely vital. The numbers that we arrived at are based on national and local data, but it is also important to recognise that the HNDA was a starting point in reaching the MATHLR figures, so there is also flexibility. It is important to remember that, as part of the new-style LDPs, there is also the opportunity for local evidence, through the evidence reports, to identify where there is additional need and demand. That flexibility is built in.

The HNDA guidance and the tool are kept under review, and they are regularly updated when updated household projections are released by National Records of Scotland. HNDA is well understood and well established, and I recognise that, at the session last week, Homes for Scotland offered to facilitate a workshop for the committee on HNDA. I am keen to maintain positive engagement with Homes for Scotland, so planning officials and those from the centre for housing market analysis will, of course, be happy to have discussions on the HNDA tool and other matters with Homes for Scotland.

Do you want to provide more detail, Carrie?

Carrie Thomson: On the MATHLR figures, we engaged quite a lot with the local authorities in the process that was undertaken. We provided baseline information that was national data and statistically based, and then we provided the local authorities with an opportunity to feed in local-level evidence and information to inform it. They could use whatever data they had at their level—information based on policy ambition or policy drivers—to influence the data and the information

that they fed into the figures and increase them. Those figures will be a baseline for the next LDPs, so we should say that they are minimum figures. The HNDA will then be completed in full to inform the LDP as it progresses through the new system.

Mark Griffin: I will ask about local engagement with the various planning authorities. Did they all engage fully, or were there various levels of interaction with your department?

Carrie Thomson: Every authority responded—some collectively. The west of Scotland and Glasgow city region areas responded collectively. Every local authority is at a different stage of their housing and planning processes, so they provided the information that they were able to provide at that time. We have updated the information on the basis of HNDAs that have progressed prior to the draft, and authorities will be able to use updated information as they progress their LDPs.

Willie Coffey: During our evidence-taking, the committee also discussed the infrastructure first approach to the planning system across Scotland. What level of buy-in is there from infrastructure providers to support that approach? We heard evidence from witnesses about how important buy-in is to delivering and achieving that. How confident are you that that can be done?

Tom Arthur: The support that NPF4 provides can bring a degree of confidence and certainty. It has been my experience as planning minister over the past 18 months that infrastructure is a key interest of many colleagues. It is a policy commitment in NPF4 that is very welcome. As important as NPF4 is in itself, local development plans have a key role to play. They can play a very important role in securing that buy-in and providing that confidence at the local level.

Collaborative working will be at the heart of this work. We set out, through our delivery programme, some of the practical ways in which we will seek to engender collaborative working. Moreover, I have been trying to set out more generally the work that we do as a Government to move from policy and design to implementation. That can help to support that work as well.

Willie Coffey: Okay. Thank you for that.

In response to one of the questions, you mentioned community wealth building. There was some evidence given to the committee that the definition of that in NPF4 is a little bit lacking in clarity, and perhaps it is not so well understood in planning circles, even now. Can you say a wee bit more about how you might address that and whether you agree with the concerns and issues that have been raised in order to make it clearer for everyone?

Tom Arthur: I recognise and welcome the comments from stakeholders, who have themselves welcomed the greater clarity on community wealth building in the NPF. Community wealth building is at different stages of implementation. You will be aware from your constituency, Mr Coffey, that, across Ayrshire—it started with North Ayrshire but now includes the whole region—we are seeing trailblazing work being done on community wealth building. I was delighted to be out and about in the area in the summer and to see some of the great work that has been going on there through place-based approaches to procurement.

Community wealth building is something that more and more local authorities will take up. As things stand, the Scottish Government has supported five pilot areas. There is the work that is taking place in Ayrshire, and other local authorities are taking forward, under their own steam, community wealth-building approaches. As a Government, we have a commitment to support all local authorities to develop their community wealth-building strategies. I will have more to say about that in the new year. We also have a commitment to introduce legislation to support community wealth building, on which we will consult ahead of its introduction. We have established a bill steering group in that space, as well. Again, I will have more to say about that in the new year.

Community wealth building is also referenced in our national strategy for economic transformation. Community wealth building will be a key practical tool for realising the ambitions around a wellbeing economy. It will be integral to rewiring how our local and regional economies operate so that they do so in a way that sees less wealth extraction and more wealth retained by communities. As the model is rolled out and more local authorities adopt it, we will see more local authorities with their own community wealth-building plans. As the policy references, that will have to be recognised in planning decisions.

Willie Coffey: Do you think that local people have enough understanding of what we mean by community wealth building? Do they get it? That is the question, minister. How will the public shape community wealth-building plans as they develop? The committee has always been in favour of the view that Governments and councils should not do things to people. Rather, we should do things with them and embrace people at ground level in order to enable them to shape policy development. Do you think that there is enough local knowledge of what we mean by community wealth building, and are there enough opportunities for people to get involved in the process to help shape policy development?

10:15

Tom Arthur: The term “community wealth building” may be new to some people, but the concept underlying it is not. Certainly, the key components are all well understood strands of work, many of which have had long-standing support from the Scottish Government and local authorities. Many of the key components are well established in Scotland, whether they are around sustainable procurement, supporting local businesses or localising supply chains, the retention of local assets and seeing more local assets in community ownership, promoting fair work and progressive recruitment practices, or, indeed, promoting more progressive models of ownership, be they co-operatives, employee-owned businesses or social enterprises.

Community wealth building brings a strategic lens to those individual strands in such a way that we can effect quite significant and radical change in how our local and regional economies operate. I am heartened to see the interest to date in community wealth building from across the political spectrum and, indeed, among stakeholders. I have had very positive engagement on community wealth building with, for example, the Federation of Small Businesses, and I look forward to more constructive engagement.

This is something that has real potential. It will not be an overnight fix: there are no magic bullets here to address all the challenges that our local and regional economies face. However, community wealth building has something of a track record in other areas: it is already delivering on the ground in Ayr, and, as more and more communities throughout Scotland adopt it, we will see the benefits of it. Spatial planning can have a key role in delivering community wealth building, which is why I am delighted that we have the policy in NPF4. Although I cannot say for certain that this is the case, one contributor has suggested that it may be the first planning policy in the world to have within it a specific community wealth-building policy. That is a demonstration of the Government’s commitment to advancing the community wealth-building agenda. I hope very much to have the opportunity to discuss that in more detail with the committee in due course.

Willie Coffey: Okay. Those comments are very welcome.

The Convener: Thanks very much. I move on to questions from Marie McNair, who joins us online.

Marie McNair (Clydebank and Milngavie) (SNP): Good morning, minister, and good morning to your officials. In the evidence that we received last week from stakeholders, there were some

calls for improvements that could assist the general public. Would you consider publishing a non-technical summary of NPF4 to aid community groups and others in understanding what can be a fairly technical document that will be integral to future planning decisions?

Tom Arthur: Yes, absolutely. I want to see as much engagement in the planning system as possible. I have been clear that this will be a collective endeavour, which will take time. However, I want to move the narrative from one of conflict to one of collaboration, which means genuine community empowerment and engagement in the planning process.

We already have tools at our disposal. Earlier this year, we introduced the regulations on local place plans, which can provide communities with a key opportunity to shape their places. I noted the comments made last week—it might have been Professor Hague who made them—in regard to how, when we seek engagement in the planning system, it is often in the negative context of wanting to stop a development. We have so much insight and knowledge in our communities, and we need to do more to harness that and feed it through our local place plans and other mechanisms to ensure that communities are much more engaged at an earlier stage and have the opportunities to bring their experience, their local insight and, most important, their ambitions for their communities to bear through local place plans and other measures such as local development plans. That can do planning overall a power of good, because it gets us much more into a space of talking about what we want to see rather than the developments that we do not want to see.

Marie McNair: Thank you for that reassurance. Some planning stakeholders are concerned that delivery continues to be the weakest area across the NPF4 documents. Can you assure us that the policy priorities that are set out in NPF4 will be delivered?

Tom Arthur: I apologise; may I ask you to repeat the question? I missed the first part of it.

Marie McNair: Some planning stakeholders are concerned that delivery continues to be the weakest area across the NPF4 documents. How can you assure us that the planning priorities that are set out in NPF4 will be delivered?

Tom Arthur: I want to give reassurance, and I have sought to do that in the evidence that I have provided so far to the committee. As a Government, we are turning the focus away from policy development and legislative change and towards implementation. We are working constructively and collaboratively with stakeholders to ensure that the planning

profession is supported and resourced. Notwithstanding our focus on delivery, we will also roll out the further provisions of the Planning (Scotland) Act 2019, which will help to support the delivery of NPF4, for example through the provision of masterplan consent areas.

We are also taking forward a phased permitted development rights review programme—again, that can help support delivery. Delivery is an absolute priority, and monitoring will be key in assessing how we are progressing in that regard. However, delivery will require collaboration, and I am absolutely committed to the closest engagement possible with stakeholders because, ultimately, planning is for everyone, and everyone has a role to play in planning and in making NPF4 a success.

Marie McNair: Thank you for that, minister. I have no further questions, convener.

The Convener: Thanks, Marie.

Minister, I have a question on your point about everybody having a role in success of this. The climate and biodiversity are at the forefront, and there is a need to move to a spatial strategy, which you mentioned earlier and which you have also mentioned in the past. I would add that maybe we are also facing a spatial squeeze. We heard something about that in relation to Edinburgh in Miles Briggs's questions.

In the development of NPF4, do you have a sense that sectors that are involved in development—housing, for example—understand that they may need to change their business models? What I am starting to see across all my work in Parliament is that, in the need to respond to the climate and nature emergency, business models need to change, and we have to move from how things are being done now. We really need to consider how we will be doing housing and everything else 10 or 20 years from now. Do you feel that that collaboration is really happening in the sectors that will be putting in our infrastructure?

Tom Arthur: I think that it is happening. I go back to the point by Professor Hague that I referenced earlier: we do not have a choice. We can say that it is a social imperative, an economic imperative or, indeed, an environmental imperative, but we do not have a choice. Climate change is happening. Yes, we have to mitigate, but we have to adapt as well. I think that we could all say that if we do not do that, the consequences will be incalculable.

We have put the climate emergency and the nature crisis right at the heart of NPF4. Policy number 1 runs through the entire vision of the document, but such considerations are not unique to Government. Every business and every local

authority is having similar discussions. What NPF4 does is provide a clear direction in our planning system as to the action that has to be taken. Planning is uniquely placed to help us to address the climate emergency because of the power that it has to direct, in a coherent, considered and rational way, the types of development that we need to see to meet these strategic challenges.

Further, given the timescales within which planning operates, there is no overnight fix or quick cure. This will take sustained work. That is why we have set out a vision to 2045 in NPF4.

The Convener: Thanks for that. It will be interesting to see what happens once we move into the delivery plan phase and the changes that come about from the private sector.

I just want to dig down into one particular policy area. We heard last week that there could be a conflict between renewable energy and wild land. I note that one of the tests for allowing renewable energy development on wild land is whether it supports the meeting of renewable energy targets, but concerns have been raised by Scottish Environment LINK and the John Muir Trust that all renewable energy developments, by their very nature, meet that test. Can you assure the committee that NPF4 strikes the correct balance between protecting wild land and meeting renewable energy targets, and can you provide more clarity on that issue?

Tom Arthur: I highlight last week's evidence from Scottish Renewables, which recognised the significance of our renewable energy policy in NPF4; indeed, it is at the forefront of thinking in a European context. It also recognised that protections for wild land already exist and are retained—and, in that respect, I would highlight as an example the percentage of wild land that we find in our national parks or national scenic areas.

I also point out that it is important to read NPF4 as a whole. Ultimately, decisions have to be considered on a case-by-case basis in conjunction with the development plan—including the local development plan—and the individual decision maker has to take all of those factors into consideration.

Do you want to add anything, Cara?

Cara Davidson: There is a separate process for setting targets, including for onshore wind. The draft onshore wind policy statement was consulted on in autumn 2021, I believe, and I understand that colleagues will shortly bring forward a final onshore wind policy statement.

The Convener: I can see that NPF4 will be the core curriculum for all the new planners that we will be bringing on board. You have said a number

of times now that it needs to be read as a whole, minister, so it will be a central document.

I call Paul McLennan.

Paul McLennan (East Lothian) (SNP): Good morning, minister and good morning, panel.

At last week's meeting, we discussed the resourcing and upskilling of planning staff, particularly in the DPEA; indeed, you have just touched on that issue, too, minister. However, in addition to that, the Royal Town Planning Institute mentioned the issue of recruitment. Can you say a little more about that? I think that it has been estimated that 700 additional planners will be required, and we have heard that Marine Scotland requires resources as well. What will the recruitment process look like over the next few years? People have said that they welcome NPF4, but they need resources to deliver it, and probably at an early stage.

Tom Arthur: First of all, I encourage all aspiring planners outwith Scotland or in other parts of the UK to come to Scotland to work in planning and help us deliver this really significant framework.

As we will all recognise, there will be no quick fix to this challenge. There are high-level things that we can do to raise the profile of planning and make it as attractive a career choice as possible. Again, I make it clear: planning has so much potential to deliver so much good, and it represents an excellent career choice for anyone.

As for the practical work that we are doing in that respect, there are, as I have already mentioned, issues with resourcing. In some planning authorities, fees have translated to additional posts, and there has been work to bring in full cost recovery. I would caveat that by making it clear that there are complexities in that respect, and we do not want any unintended consequences, but that commitment is being taken forward.

There is also the future planners project, which earlier this year published a report containing a number of thoughtful suggestions for actions that we can take to increase the number of people coming into the profession. Fiona, do you want to say anything about that?

Fiona Simpson: The project makes a range of practical suggestions, including a planning apprenticeship scheme and working with graduates coming into the profession to give them a rounded experience. After all, this is partly about how we retain planners in local authority services instead of seeing them move to the private sector. There is a range of issues that we can work on with the profession and with heads of planning, who are really keen to progress all this.

Part of the issue is the planning profession itself. We need more planners, but we also need to think about interdisciplinary working and how planners can work alongside the other built environment professions. There is lots of work to do on that.

Paul McLennan: The committee is keen to find out how we monitor NPF4 over the next few years. Given that it is a living document, what key metrics should we be looking at? The key question is this: how will the Government or the directorate monitor all this and review the policy itself, particularly over the next 10 years? We have seen how much things have changed in the past 10 years. How can we monitor NPF4 to ensure that it really is a living document? The committee is keen to consider what, from the Government's point of view, the key metrics are that we will be looking at over the coming years. Indeed, I think that we have raised that issue with Andy Miller before.

10:30

Tom Arthur: First of all, I recognise that monitoring is absolutely vital. With this new approach, which follows on from the Planning (Scotland) Act 2019, I am keen to have the closest possible engagement; indeed, I am very keen to hear the committee's views and insights at the point of the framework's adoption and as we move through the iterative process with the delivery programme. I want to make that crystal clear from the start.

We also need to recognise, as I think we all do, that the impact of planning can take time to feed through. Indeed, that is intrinsic to its very nature. Clearly, there are a number of different metrics that we could go through—and I will ask colleagues to touch on them in a moment—but I have to say that I was struck by Professor Hague's comments at last week's meeting. Although he recognised the importance of looking at how LDPs were shaping up and at planning appeal decisions, he said that there was also a need to discuss collectively and report on the real, tangible and measurable impacts that the NPF4 was having, particularly with regard to community engagement and ensuring that people felt involved. A very important rule not just for the delivery programme itself but for the impact of NPF4 on the ground is that we show these things in a clear and accessible way.

There are other strands of work where monitoring can play a role. I should point out that we are working towards recruiting the national planning improvement co-ordinator, a role that has been created through the 2019 act, and work is also being carried out the new planning performance framework reports that will replace the current voluntary regime. All of those can play a particular role in this respect, too.

Fiona, do you have any comments to make?

Paul McLennan: Before you do so, Fiona, I will just say that this is not just on Government—I think that there is an emphasis in local development plans on having the same process, too. As you have said, minister, NPF4 is the framework, but local delivery is mostly done through the local authorities. I think that there is some element of that in the local development plans.

Tom Arthur: That comes back to the pivot in our focus that I have talked about. As we move to implementing and delivering NPF4, the Government can have more active engagement in that.

Fiona Simpson: Monitoring is work in progress for us. We have choices to make. For example, do we make use of high-level, strategic, broader data sets such as the data and indicators used for the national outcomes, or do we focus more on specifics such as the direct impact of planning decisions and where LDPs are in the process? It is probably a mix of both, but we need to work through that.

Digital will also have a really important role to play here, if we can get through the next stage of the digital programme. The focus of the strategy will turn to data and how we use it in a really smart way, and the idea is that the data sets will, at any point, allow us to see what is happening and where the sites are, and then we can bring all of that together and move from a national perspective down to a local perspective. Again, there is lots of work to do on that, but that would be the ideal.

Paul McLennan: Thanks for that.

Convener, I have one more question, which is on a specific issue. As you will probably be aware, the issue of out-of-town developments and drive-throughs, which has been in the press, was raised last week, and I am just looking for a bit of clarity on that. I do not know whether this is a question for you, minister, or for Andy Miller or Fiona Simpson, but what does the policy state in that respect? The press has been quite confusing on that, but the issue has, I think, been raised with all of us on certain occasions.

Tom Arthur: Some of the reporting on this matter could be misleading or lead to misunderstanding. Under the policy, drive-throughs should go ahead only if they are supported by the local development plan. As we will all recognise, that will sit beside support for a range of policy outcomes on, for example, local living and 20-minute neighbourhoods, our ambitions for reducing emissions and car travel and, of course, other out-of-town scenarios. I am conscious of the issues that have been raised, and

I will engage with relevant stakeholders and seek to provide reassurance and clarity on the policy intent and what it will deliver.

Paul McLennan: Thank you, minister. That was clear.

The Convener: I will now bring in Miles Briggs, who has a few questions on behalf of Annie Wells. Annie is with us online, but she has a throat ailment. Afterwards, I will bring in Liam Kerr.

Miles Briggs: The first question follows on from Paul McLennan's question. Last week, we heard from Jim Miller, chair of Heads of Planning Scotland, who suggested that his interpretation of policy 27(d) pointed towards a ban. That is where there has been concern. I saw the minister coming in with a coffee this morning; I do not know whether he used a drive-through to get that. It is important to make sure that, when the policy gets down to local authority level, it is not misinterpreted.

Policy 27 was not even part of the original consultation and there has been no subsequent consultation on it. I was pleased to hear what the minister said to Paul McLennan, but, as for any future consultation on the policy, he said, "This is it". What will that policy look like in guidance, because that is not clear, given the interpretation that people are taking from NPF4 currently?

Tom Arthur: As I referenced earlier, speaking in general terms, we will provide advice on transitional arrangements should Parliament agree to and approve NPF4. Following the adoption of NPF4, we will work to deliver the regulations on local development plans, along with guidance. In general, that is what we will do.

The policy is clear, and I think that, when the policy is read, its intention is straightforward to understand. As I said, I will engage with relevant stakeholders in the sector to ensure that the intent of the policy is clearly understood. I recognise that some confusion may have been caused by how it was misreported, but the policy is consistent with what we want to see in a plan-led approach.

Of course, my coffee, as always, was purchased in the garden lobby. It is the best coffee in Edinburgh.

Miles Briggs: I am pleased to hear that and will feed that back to Kirsty.

On a separate point, we have all welcomed the positive engagement and work around renewables, but I am slightly concerned about what that means with there being no specific strategy for grid reinforcement works. That is still missing in the document, although the minister will maybe point towards the delivery programme for the guidance in that regard. In relation to renewables coming online, where does that now

sit in relation to the development of major grid reinforcement works that will be needed to realise that potential?

Tom Arthur: I highlight the status of strategic renewable electricity generation and transmission as a national development and the clear support for renewables behind the policy. With regard to the detail of your question, I will ask Cara to come in.

Cara Davidson: Policy 11 sets out that the support includes enabling works, such as grid transmission and distribution infrastructure. We are well aware of the role and the strategic importance of the expansion of the grid network, not least because of its role in supporting the roll-out of offshore renewables as well. Certainly, policy 11 makes clear support for that reason.

Miles Briggs: Okay; thank you.

Liam Kerr (North East Scotland) (Con): Good morning to the witnesses. On that exact point of transmission and the grid, policy 6(b) concerns forestry, woodland and trees. It states:

"Development proposals will not be supported where they will result in ... Any loss of ancient woodlands, ancient and veteran trees, or adverse impact on their ecological condition".

During the consultation, various stakeholders, including Scottish and Southern Electricity Networks Transmission, pointed out that such a black and white position means that transmission infrastructure, perhaps linking new wind farms to the grid, reinforcing the network to transport that clean power to areas of demand or strengthening grid resilience for rural communities—in other words, minister, meeting the strategic challenges that you talked about—would not be done on a case-by-case basis and would not be able to go ahead, at least not without things like public inquiries. That policy has not changed in the revised draft. What was the thinking that led to the rejection of those representations and to there being no change?

Tom Arthur: With regard to policy 6, it is important to recognise that our ancient woodlands are irreplaceable habitats. Given the clear commitments around tackling both the climate emergency and the nature crisis, there is an imperative to ensure that we are protecting those vital natural assets.

I am conscious of the concerns raised by SSENT, and, in the interests of transparency, I will meet the organisation shortly. My officials have already had engagement to discuss those issues.

I will ask Cara to come in to provide a bit more detail with regard to the development of the policy.

Cara Davidson: I reiterate what the minister said about NPF4 being read and applied as a

whole. I point to the minister's opening remark that judgments will always need to be made on the basis of the circumstances of individual cases. Grid connections are already subject to planning requirements, and there is an opportunity for judgment to be applied where public need may outweigh any negative impacts.

Policy 6 aligns with and reflects established Scottish Government policy on the control of woodland removal, which is set out in Scottish Forestry's policy.

Liam Kerr: I understand the points that the minister makes about the ancient woodlands, which could probably be similarly applied to peatland. Of course, policy 5 specifically concerns peatland. It also was not changed, but it is worded in slightly different terms. Policy 5(c) says:

"Development proposals on peatland, carbon-rich soils and priority peatland habitat will only be supported for ... Essential infrastructure and there is a specific locational need and no other suitable site".

That is an appropriately stringent but, nevertheless, arguably more sensible position that recognises the importance of peatland, particularly in the drive to net zero, but allows for nuance where there are infrastructure projects, such as transmission, that are required. Given that, minister, would you consider reviewing policy 6(b) so that it would be more akin to or mirror policy 5(c) on peatland?

Tom Arthur: As I mentioned in my previous answer, I am happy to engage with and will engage with SSENT to understand its concerns in more detail. I recognise the point that you are making, Mr Kerr. I am very conscious of the significance of ancient woodlands and of the fact that they are an irreplaceable habitat.

I will make two points. The first is that we are at the end of a process, which it has taken some time to get to. I want to focus on bringing NPF4 to Parliament for a vote of approval and subsequently, in short order, its adoption by ministers. However, I am absolutely committed to the closest monitoring and engagement with stakeholders, going forward. In any policy development, no one wants any outcomes that are not consistent with the intent.

Through the monitoring and engagement that I have already indicated that I am committed to undertaking, we will look carefully at the policy, understand concerns and carefully monitor any impact that it has. The current position is that we will bring NPF4 back to Parliament for a vote of approval and, should Parliament agree to it, it will subsequently be adopted by ministers. There will be the closest engagement with all sectors, specifically on the points that you raised. As I said, I will meet SSENT shortly to discuss its concerns

in more detail. My officials have already had engagement with it.

Liam Kerr: That being the case, will guidance be issued to assist local authorities with interpreting policies such as 6(b) so that they can be assisted in deciding, for example, what the loss of ancient woodlands means in cases in which, accepting the point that the minister rightly made, the developer was perhaps going to replace or even enhance what was there? If there is to be guidance, does the minister know when it will be out?

10:45

Tom Arthur: On the general point about guidance and transitional arrangements, I refer to my earlier answer and say that we are committed to providing transitional advice shortly following a vote in Parliament, should Parliament approve NPF4. Guidance will be published alongside the regulations for the local development plans. That guidance will cover not only the process of LDP development but thematic guidance on how to reflect specific policies in LDPs.

I will be happy to reflect on any issues or concerns about specific guidance that are raised through the monitoring process and the engagement. Do you want to add to that, Andy?

Andy Kinnaird: Sure. Guidance can take different forms—it may be that there is a need for some Government-published guidance. Also, part of our new approach as we move into that delivery phase in our own team will mean engaging with those who are delivering the policies and working together on the interpretation. Guidance can take various forms, including in the form of best practice.

Cara Davidson: On policy 6 in particular, NPF4 does not sit in isolation. There is existing specific implementation guidance that supports the control of woodland removal policy. As Andy said, there are wider plans around engagement and sharing best practice to support the delivery of NPF4 specifically.

Liam Kerr: I have a final question. Minister, you have suggested throughout today, for understandable reasons, that the parliamentary process for NPF4 does not allow for amendments to be considered at this stage. How can amendments specifically relating to, given my line of questioning, critical national infrastructure and the perhaps unavoidable impacts of developments on ancient woodland be lodged in the future? How soon can that amending process commence?

Tom Arthur: There are provisions to make amendments to NPF4. That can take place at any time following the commencement of the relevant

regulations. Clearly, careful consideration would have to be given to that, and it is not a step that would be taken lightly, but that provision is in the legislation for good reason. Of course, should it be necessary to do so, that will be taken forward through consultation and engagement and in a way that is evidence led. I do not know whether there is anything that you want to add about the process, Andy.

Andy Kinnaird: No, other than to say that we will start that work early in the new year, once we have NPF4 through.

Tom Arthur: Once we adopt it, we will take forward the process to provide that clarity. I reassure you that there will be a means of amending NPF4 at any time, once it is operational and the provision has commenced.

Liam Kerr: I am grateful to the witnesses.

The Convener: That concludes our questions. I really appreciate all of you coming in to allow us to hear what you have to say about NPF4 and the work that you have been doing. It has been a useful session, and I look forward to the next steps in the process.

I will suspend the meeting for five minutes before we move on to our next item of business.

10:49

Meeting suspended.

10:56

On resuming—

National Care Service (Scotland) Bill: Stage 1

The Convener: The third item on our agenda is to continue our scrutiny of the National Care Service (Scotland) Bill. We have two panels of witnesses representing people who receive social care. For our first panel, we are joined online by Mike Burns, who is representing the Granite Care Consortium but is also the chief executive officer of the mental health charity Penumbra; Sophie Lawson, policy and participation manager at Glasgow Disability Alliance; Stephanie Fraser, chief executive of Cerebral Palsy Scotland; and Andy Miller, strategic lead for participation and practice at the Scottish Commission for People with Learning Disabilities.

I welcome our witnesses. If they indicate when they wish to respond to a particular question by putting the letter R in the chat box, I will make sure that we bring them in. We have only an hour for this panel, so I remind members to, where possible, address their questions to particular witnesses. Of course, I will potentially go against that request when I begin my questions.

I will begin by focusing on the challenges facing care delivery. I am interested in your perspectives on the main problems with the way in which social care is delivered currently. Do you agree that there is a postcode lottery in care delivery in Scotland? I will start with Stephanie Fraser and then open that up to others.

Stephanie Fraser (Cerebral Palsy Scotland): Thank you for inviting me to the committee.

People with cerebral palsy fall between the cracks. Cerebral palsy is a very good bellwether condition, because it is a long-term condition for which no medical procedure or drugs can magically make things better. People with cerebral palsy will lead as long a life as anybody else if other complications do not occur, and what they can achieve in life and how independent they can be depend on how involved their disability is and their access to help and support.

People with cerebral palsy fall between the cracks of the current system. People with very involved CP who have a large care package from childhood are relatively okay but, when those needs change—the needs of people with cerebral palsy do change as they age, even though it is not a progressive condition—who is able to assess that? People who, as children and young adults, do not need access to care, quite often need access to some care as they age, and there is

confusion around how they can access that and whether it is through health or social care.

11:00

Thresholds and referral criteria are cumbersome. The health and social care system is not fully integrated at the moment. It is too disjointed, and there is too little access to condition-specific expertise when it is required. People are passed from person to person without any one person taking responsibility.

There are no specialists for adults with cerebral palsy. You asked whether there is a postcode lottery. It is not as simple as saying that one area is better than another. If someone with CP has access to a person—a social worker, advocate, physiotherapist or whatever they might be—who helps them to navigate the system, they will have a better outcome. It is just pot luck as to whether people find that positive first person.

The Convener: Thank you—that is very helpful.

Andy Miller has indicated that he would like to come in.

Andy Miller (Scottish Commission for People with Learning Disabilities): Thank you, and good morning, everyone.

A lot of people with learning disabilities experience situations that are similar to what Stephanie Fraser has just described. Systemically, from what people with learning disabilities have reported, it is more of a postcode lottery for them in some respects, which I will come on to. In general, however, people find the social care system complex and inflexible. It is hard to get into, and it often involves multiple retellings of the same experiences. Those experiences are often traumatic, so retelling them is difficult. For people who enter the system as an adult, it is difficult to find out who to speak to and how to get an assessment, and that is complicated if someone does not have a formal diagnosis of a learning disability, which is often the case.

For people who have social care as a child and then move into the adult system, that is really difficult and complicated, and it is very frustrating for people. A lot of them describe the experience as being like falling off the edge of a cliff, because the level of service provision for an adult is often much less than what children with learning disabilities are entitled to. It will always be a complicated process, because so many agencies are involved, but the co-ordination of those agencies is regularly very poor. There is no clarity between the agencies about who should lead the process and how wide the process should be. That is one issue.

Eligibility is another issue. Over the past few years, eligibility criteria have tightened and become increasingly high so that, unless someone is in critical or life-threatening need, they are just not eligible for social care. It is a binary system, so people get it if they are in critical need, or they get nothing.

There is a great quote in the Feeley report from someone with a learning disability—someone I know, actually—who said:

“Social Care should be a springboard not a safety net.”

However, the springboard function of social care is not working. There is a focus on crisis prevention and not on capacity building or protection of human rights.

One area in particular that you could describe as a postcode lottery is that of social care charging. Some people pay almost nothing, and some people who receive similar levels of social care support pay exorbitant amounts.

High turnover of staff is really problematic, and that has been particularly bad since the pandemic. The importance of relationships in social care is really high, and it is getting harder and harder for people with learning disabilities who use support to have a strong relationship with someone, because the turnover is so quick.

This next point is not something that people have told us, but it is clear that there is a lack of data about people with learning disabilities. If you want to find out how many people in Scotland have learning disabilities, you cannot—the information is just not there. If you want to find out how many people with learning disabilities in Scotland are on a housing waiting list, you cannot—there is no data. The Fraser of Allander Institute recently highlighted the particular invisibility of people with learning disabilities in data collection in Scotland. That makes service and policy planning impossible. If you do not know how many people your policies or plans will affect or what their support needs are, it is very difficult to plan.

I mentioned the experience of the Covid pandemic. In many people’s experience, support levels have not returned to the levels of support that they had pre-pandemic. There are a number of reasons for that, but that has been awful for people’s life experience, to the extent of making them feel suicidal. That applies to people with learning disabilities and family carers, where family carers are involved.

The Convener: Thank you for that, Andy. I believe that Sophie Lawson would like to come in on these questions as well.

Sophie Lawson (Glasgow Disability Alliance): I will echo a little bit of what Stephanie

Fraser and Andy Miller have said, because our members have had similar experiences. For context, Glasgow Disability Alliance has a membership of more than 5,500 diverse disabled people, with different outlooks on many things, but this is one area on which we have a completely unanimous position: the social care system, in its current form, is too broken and fragile to meet the real needs of disabled people in Glasgow and across Scotland.

Our social care expert group is made up of over 100 disabled people in Glasgow, who dedicate their time and energy to campaigning to improve the social care system for themselves and others. Some members have gone months—in some cases, over a year—without a shower. They have been called lazy by their care workers for asking for help or have been put to bed while it is still light outside. As Stephanie said, they have met extremely long waiting periods for assessments. Some are waiting for months or years for urgent intervention. Again, we know that eligibility criteria are set too high and are based on reducing dependency on services. We have found that disabled people do not feel believed or listened to by social care providers and that trust has broken down.

Among our members, 83 per cent of those receiving social care support have reported that they do not get the support that they need when they need it. As others have touched on, we are facing a high turnover of care staff due to poor wages, poor progression and few opportunities. Disabled people object to that and sympathise with care staff but, for them, it means inconsistency, no-shows and cuts to care, which, as people have already pointed out, have a devastating impact, often on mental health, and create a life-or-death situation.

On the second question, we have definitely found inconsistency between, but also within, local authorities. A lot of our members talk about it being about who you get. We know of people living on the same street, where one has had a brilliant experience of social care and the other has had a difficult and traumatising experience. We have also found that many GDA members have moved local authority in the hope of finding better care in a different area. That is how stark the postcode lottery is. We are seeing the real consequences of that among our membership.

Finally—this point was touched on previously—there is an assumption that when statutory provision is failing, families can provide care to fill in the gaps, which can change relationships and often puts families into poverty. When inadequate carer support is in place, that creates real financial and emotional difficulty for families. From our perspective, we are in the midst of a social care

crisis that requires urgent intervention on all those points.

The Convener: Thank you, Sophie. Mike Burns would like to come in as well.

Mike Burns (Granite Care Consortium): Good morning, folks. I echo a lot of what other contributors have said. From my national perspective on mental health, access to social care is very disparate and, at times, very desperate for people. With my Granite Care Consortium hat on, and as someone responsible for taking forward what is possibly the biggest test of change in social care in Scotland—a whole-place test of change in the city of Aberdeen—I know that, even in single locations, there is still a disparate picture facing people who are trying to access social care. To see that, we only have to look at the size of the unmet needs lists and the waiting lists for people not only to get on to social care but to get a social care assessment.

Is there a postcode lottery? Yes, I agree that there is. With regard to locations, the situation is still disparate, in the sense that we have a disparate structure with three layers of provision and none of them quite tie up together. We have tried integration joint boards and self-directed support—your later questions might come on to that—but the joined-up thinking and joined-up delivery are just not there.

The Convener: I will continue with another question and will start with you, Mike. If others want to come in, please indicate so in the chat function.

The committee has heard from others that the proposed national care service is a disproportionate solution to address some of the challenges that you have all laid out this morning. I am keen to hear your views on whether legislation is needed to bring about improvements. Is there another way in which we could approach needs in a more joined-up way and do the things that you have discussed?

Mike Burns: In 2014, we tried to roll out IJBs. I remember sitting on a strategic planning group for IJBs in Dundee and watching as eight silos were reduced to four silos, with two staying in local authorities and two staying in health. That was some people's view of integration. Then we had self-directed support, which did not quite achieve the person-centred focus that we believed it would. Those were two pieces of legislation that should have brought more integrated approaches to the delivery of social care, but they have not been successful, so I would argue that the legislative route is possibly the only one that is left open to us if we are to create something that is truly integrated and truly creates a voice for the

people who use the services and all the organisations that deliver them.

You have only to look at Granite Care Consortium and what we have tried to achieve in Aberdeen in our first two years of operation. GCC is one example of the pockets of really good practice across Scotland where we have seen attempts to create social care integration. However, that has taken the good will of people and social care partnerships making a choice and taking a gamble. It is just a one-off. We should have something similar that delivers services across the whole of Scotland, rather than relying on getting the right people around the table. We need a framework to get the right people around the table to make that happen across Scotland. For me, that would be a legislative framework.

Sophie Lawson: I will echo what Mike Burns said. A lot of GDA members feel the same way: that legislative change is the only route out of the current crisis. Legislative change is needed in conjunction with increased resources and support for leaders, driven by political buy-in. Legislation alone cannot change anything, but it is needed to start the change so that the social care system becomes fit for purpose. In Derek Feeley's "Independent Review of Adult Social Care in Scotland", he said that legislative change is needed on a national level to put the progressive reform in place and fix all the problems that we have laid out.

GDA members feel that we need accountability at a national level, consistency and better standards to ensure that disabled people's needs are met. We need legislative back-up to ensure that that is implemented in the social care system. However, the legislation, as it stands, needs more commitment, particularly in secondary legislation, to ensure that a human rights approach to social care is implemented and that the change is properly put through. That includes more detail on accountability, the charter and the formation of care boards, which must have representation from disabled people's organisations and other collective voices to make sure that that is carried through.

11:15

Stephanie Fraser: I am going to take a slightly different view from the others, who have pointed out that we have had a lot of legislation in the space of integration, starting with the Social Care (Self-directed Support) (Scotland) Act 2013 and then the Public Bodies (Joint Working) (Scotland) Act 2014. Audit Scotland has examined much of the integration process, and there are numerous Audit Scotland reports. I would argue that that legislation has not been implemented and that

people have not been held to account where they have not implemented it.

The other thing is that we have national standards and guidance. In my area, we have the framework for action for neurological conditions, which covers acute community health and care; the Health Improvement Scotland general standards for neurological care and support; guidelines for individual conditions, including Scottish intercollegiate guidelines network guidelines, for example, for epilepsy, and, where SIGN guidelines do not exist, National Institute for Health and Care Excellence guidelines for children with cerebral palsy and adults with CP, for example; and such frameworks as getting it right for every child and ready to act, which is the allied health professionals' national framework. It seems that none of those is being implemented or is known about by the wider health and social care workforce.

The answers to what we want are in those pieces of legislation, but people are not being held to account for implementing them, or not. I have an example of an instance in which a very large health and social care integration joint board contacted Cerebral Palsy Scotland, in response to a complaint from a family of an adult with CP, to ask whether there were any frameworks for the care of people with cerebral palsy. I was shocked that they did not know that those documents existed and that they were not working towards them. It is not rocket science, and the answers are there.

I agree with those who spoke previously and said that we have a problem with workforce—we would call for a national workforce strategy—and that we have a problem with data and invisibility. As previous witnesses have said, it is not just that we do not know about people with learning disabilities; we do not know how many people there are with neurological conditions in Scotland or how many people there are with cerebral palsy, and we do not know how many unpaid family carers there are who, frankly, are backing up the system and being the safety net when we want the system to be a springboard.

Andy Miller: There are two questions: first, is legislation helpful? Secondly, is the bill, as it was consulted on earlier this year, the right legislation? It is clear that change is needed. We think that some legislation would be helpful in increasing accountability and, perhaps, in meeting national accountability through its implementation, but we also agree with a lot of what Stephanie Fraser said. There is already a raft of legislation and policy frameworks that are not being implemented. We are particularly disappointed that the self-directed support legislation has not brought about the change that we all hoped for. If that has not

worked, why should the national care service legislation work?

We were disappointed with the National Care Service (Scotland) Bill that came out earlier this year, because it focused solely on the structure of the new service and did not give any assurance that that structure will bring about the human rights protections, capacity building and possibility for early-intervention approaches that were put forward by Feeley.

We were particularly disappointed by the financial memorandum, which explicitly excluded certain key building blocks in Feeley's vision for a new national care service. The costs in the financial memorandum were big enough, and that is very worrying at this time, with so many other financial pressures on the Scottish Government. Is this the right time to bring in expensive new legislation? However, even worse than that, the memorandum covered only a fraction of the real costs that will be needed to implement Feeley's vision for a human rights-protecting national care service. The financial memorandum does not cost meeting current unmet demand; investing in community-based services; covering the loss of care charges, if those are to be abolished—they cost £1.3 billion back in 2013, so we are talking about massive amounts; implementing the new minimum terms and conditions for workers; the cost of new structures, such as the cost of the office of a social care commissioner, if there is to be one; and the investment in independent advocacy services that will be needed and that Feeley talked about. None of those is costed in the financial memorandum.

It will be a huge cost. The worry is that, if you pay just for the structure, it will still be expensive, and it will not bring about any of the outcomes that people with learning disabilities and other people who rely on social care support are hoping for from the new service.

The Convener: I want to come back with a supplementary to you and Stephanie Fraser, because you brought up the fact that legislation already exists. Andy, you have just talked about the cost of bringing in the national care service. We have existing legislation, we have reports from Audit Scotland and aspects of existing legislation have not been acted on. I would love to hear a little more about why you think that that has not happened. Is it to do, in part, with a lack of funding?

Stephanie Fraser: Yes, there are issues with the current set-up. For example, a lot of it is to do with confusion about who is responsible for what. There are issues with the boundaries of the health boards, local authorities, IJBs and health and social care partnerships not being coterminous, and there is confusion about who does what. We

find that, if people with cerebral palsy, in particular, who are not in receipt of big packages, present because they want help to access employment or something like that, they are told, "You can't do that because of your cerebral palsy, and, if you want that treated, you need to go to your GP." Where is primary care in all this? The lack of sharing of information among agencies is leading to confusion. As I say, the confusion about who is responsible is one of the reasons why the current system is an issue.

Andy Miller: There is a lack of co-ordination and clarity, but there are also financial pressures on local bodies, local authorities and HSCPs and, I suppose, on health boards as well. If we take SDS as a specific example, we see that there is a cross-over period. It is one of those bits of legislation that, because it is putting forward a person-centred system of support, you would hope would result in a system that is very efficient and streamlined, meets people's needs and has no fat in the system, but getting to that point requires going through a process that takes extra investment, which was not provided.

There is a lack of accountability. I am not saying that any individual or any one HSCP takes a "So what?" attitude, but if SDS fails in any health and social care partnership, there are no repercussions, except for the individuals and their families. I would always put forward an improvement programme. I am not saying that we need to go round punishing health and social care partnerships or chief execs or anything—improvement and learning from good practice are always much better—but I am just saying that there are no repercussions for failure.

The Convener: One of the things that come to my mind is that part of the reason why the minister talked about the NCS being brought forward was to put accountability at the door of ministers. That would be part of why it is being brought in.

Willie Coffey: Hello to the panel online. I have to start by asking you this: do you see the national care service proposal as being the legislative instrument that can help to transform services and to deliver the consistency that I think I am hearing you say we need across Scotland? There are a number of issues that Andy Miller—and everybody, really—raised that outline a huge number of problems and experiences across Scotland. Do you see the National Care Service (Scotland) Bill as being the instrument to help deliver that? May I start with Sophie?

Sophie Lawson: Just to touch on what Stephanie Fraser said, I think that the national care service offers a solution, if done correctly, to some of the issues that were highlighted. If we are talking about people not knowing who is responsible for what across local delivery and

there not being consistent communication, we would hope that a national system that is brought in in the right way, with better consistency, national standards and accountability, would help to resolve those problems.

From our perspective, we think that the national care service provides an opportunity to make the progressive change that is needed to give disabled people the support that they need to live the life that they want to live.

It is an opportunity for radical change. A lot of GDA members have said in response to the bill that the system as it stands cannot get any worse. It cannot get any worse than people not being able to shower for months on end or being told that they cost too much money or are too difficult for needing support to have their basic needs met. The bill does not have everything in it that we would like at this stage, and we would like to see secondary legislation that drills down on making sure that there is a charter that is representative of our rights and gives honour to the United Nations Convention on the Rights of Persons with Disabilities and the right to independent living; gives more detail about care boards and makes sure that there is representation of disabled people and their organisations on those care boards; and makes sure that accountability is specified, stating how it would be overseen on a local level to address the postcode lottery that was mentioned. Although the legislation as it stands is not perfect, we are hopeful that it and a national care service would give rise to a new system with proper legislative back-up that could stop the human rights breaches that we see at the moment and give disabled people the support that they need.

11:30

Andy Miller: Yes, legislation could help and could be the answer—well, it cannot be the answer on its own, but it could be part of the answer. Certain things would need to be put in place, and the architects of the bill would need to focus on much more than the structure.

As if the national care service was not complicated enough on its own, there is other legislation being developed that will affect people with learning disabilities in particular, for example, although not just people with learning disabilities. There is the human rights bill, the learning disability, autism and neurodiversity bill and the review of the mental health legislation. It is complicated, but it is important that those four bits of legislation be properly aligned. For example, the human rights bill will place duties on states parties to protect the rights of disabled people to live independently, so that is going to impact on the national care service. The learning disability,

autism and neurodiversity bill will almost certainly establish the post of a commissioner, and that commissioner might have a role to play in the scrutiny and accountability of how the national care service is delivered. That is why the teams developing the four bits of legislation need to know what one another is saying. At the moment, I am not sure that that is happening as well as it needs to.

It is a highly complex task, and I am not minimising it in any way. The four bits of legislation together could well make a difference, particularly around accountability, but they need to align, help one another and not get in one another's way.

Willie Coffey: Mike Burns, is the National Care Service (Scotland) Bill the instrument that we need to deliver that consistency of care across Scotland?

Mike Burns: I would argue: if not this bill, what, and if not now, when? We have a system that, from a social work perspective based on my nearly 30 years in health and social care, people tell me is broken. I witness that daily. I do not meet anybody in the field who does not tell me that change is required.

My colleagues have talked about some of the previous legislation very well. We can take SDS as an example and look at it from a case study perspective. SDS is still delivered on a time-and-task basis, but we desperately need to move to an outcomes focus—we need to work alongside people and measure the outcomes that they need from their package of care, and that needs to be done on a human rights basis.

The Granite Care Consortium in Aberdeen is the only place in the country to be doing a whole-place test of change, and we are trying to bring all those things together. Even then, we still face large unmet needs. We are looking at how unmet need, and the people to whom care and support is delivered, can be risk assessed. We are doing that within a system that, at the moment, is disparate. Health sits as one part of the equation, with local authority in-house or long-arm care providers as another element and the third and independent sector as a further element. We have successfully brought all those together in the test of change. I would argue that that is a forerunner to what Derek Feeley tried to describe in his report. That is what legislation on an NCS would help us to create.

I believe that this is the time for legislation. If we do not grasp the opportunity now, we will end up tinkering with something that is broken and just end up with another patch-up job on a system that needs to be integrated.

Willie Coffey: Stephanie Fraser, is the bill the instrument that we need to address the issues that

you mentioned with policy frameworks not being implemented all over the place? Will the national care service proposal help us to garner things together and deliver the outcomes that we all seek?

Stephanie Fraser: The short answer to that is that, given the outline of the proposed bill, it is difficult to see where that would be. We absolutely welcome the drive to ensure consistency of social work and social care services, but we are wary of there being too much centralisation. If the establishment of a national care service is just another layer of bureaucracy that service users have to navigate, it will not improve quality.

I already mentioned that there are national standards. We need national standards, and we need to hold people to account for implementing them, but services are local and are delivered locally. Social Care Future's definition of the purpose of social care is this:

"Don't we all want to live in the place we call home with the people and things that we love, in communities where we look out for one another, doing the things that matter to us?"

The bill seems to start with the structure and the formality at the top. I argue that we need to start with the person and those around the person and then build up. The bill does not do that, and that is why a local element is vital. We have to remember that community assets and third sector organisations can support people who do not need formal regulated care services to find appropriate support without drawing on formal services. That underpins all the formal structures that we see in the bill. I am very disappointed by the bill, and I am not convinced that it will deliver the change that all of us want.

Willie Coffey: I have a question about accountability. Last week, the minister said that, very often, he fields questions in the Parliament but has no accountability for many of the issues that are raised with him. Do you agree that national accountability is needed at ministerial level? I would appreciate a simple yes or no so that other colleagues can ask their questions.

Andy Miller: Yes.

Sophie Lawson: Yes.

Mike Burns: Yes.

Stephanie Fraser: Why is the Cabinet Secretary for Health and Social Care not accountable at the moment?

Willie Coffey: The legislation does not point in that direction, I am afraid. It is about local accountability, so there is accountability.

Stephanie Fraser: He is the Cabinet Secretary for Health and Social Care.

Willie Coffey: Yes, but he is not legally responsible. Local councils, IJBs and so on are responsible. That is where the accountability currently lies, which is perhaps why we have a disparate position. Should he be accountable?

Stephanie Fraser: Yes.

Willie Coffey: Good. Thank you.

The Convener: We have quite a few questions to get through. I ask colleagues to direct their question to somebody initially, and witnesses should put an R in the chat function if they have something to add. I definitely want to hear from everybody, but if we keep going around everyone for all the questions, we will run over time quite considerably.

Miles Briggs: Given that we are short on time, I will ask some yes or no questions, too. The Social Justice and Social Security Committee has also been looking at the bill, and part of our work has been on the charter of rights and responsibilities that will be created. I welcome that, but one of the concerns is that the charter will not necessarily be legally binding. Should it be legally binding? We can have a yes or no answer.

Stephanie Fraser: I will give a cautious yes.

Mike Burns: Yes.

Sophie Lawson: Yes.

Andy Miller: I, too, give a cautious yes, but I make a plea that we separate rights from responsibilities in the charter. There should be a charter of rights, because the rights that we are talking about are human rights and are not conditional. When we link rights with responsibilities, it suggests that people are entitled to their rights as long as they behave responsibly in a certain way. It might be the case that people who access support have responsibilities to behave in a certain way, but there should be no suggestion that folk might not be entitled to their human rights if they behave badly.

Miles Briggs: That is a very good point.

The Health and Social Care Alliance has suggested that there should be scope in the bill for the creation of an independent authority to hold ministers to account for their decisions, as we have been discussing. What are the witnesses' views on that? Do they support that call?

Stephanie Fraser: The problem with the bill is that there is no detail or structure, so it is really difficult to understand what will happen from the vague text. It talks about the Scottish ministers being held accountable for securing

"improvement in the wellbeing of the people of Scotland".

That is a massive thing. If I was trying to draw up the key performance indicators for that, I do not

know how you would hold ministers to account. The problem is that we need to see clear lines of local and national responsibility. I would argue that, if the only accountable officer is a Government minister, that is too far removed from the everyday experience of individuals. A lot of the issues could be solved by having the right to independent advocacy and mediation at an earlier stage. That is integral.

The Convener: We will move to Marie McNair, who joins us online.

Marie McNair: I thank the witnesses for giving us their time this morning.

I have a few questions. What have been the impacts of the integration joint boards, and has there been enough time for that model to bed in and make a difference? What are the implications of replacing IJBs with care boards? You have spoken about that already but perhaps you would like to comment further.

I will put that to Mike Burns first.

Mike Burns: Good morning, Marie. I mentioned earlier that I was part of the strategic planning and development of IJBs in 2014 and 2015. If I look back on that from the perspective of the health and independent sectors, I think that we ended up with, in some ways, a power grab. The voices of people who receive the services were not reflected in the establishment of IJBs. If you look at IJBs across Scotland, you will see that we have third and independent sector representation in some of them but not in others. The legislative framework was not robust enough to ensure an equal voice at IJBs.

IJBs have not succeeded in their mission and vision. Hopefully, if we establish an NCS with care boards, the boards will learn from that and address some of the deficits that we have around IJBs.

Marie McNair: Thank you, Mike. Does anyone else want to comment further? I know that a lot of that has been referred to already.

The Convener: It does not look as though anyone else wants to come in on that.

Marie McNair: Okay. Do you recognise the situation that the minister described last week? You have said that people feel as though they are being pushed from pillar to post if they have a complaint or concern. A lot of that has been discussed already, but I just throw the matter out there in case anyone wants to expand on what has been mentioned.

Sophie Lawson, I am sorry to put you on the spot, but do you want to comment?

Sophie Lawson: Yes. There is massive inconsistency. We see recurring examples of GDA

members constantly being pushed from pillar to post, particularly when they are navigating different areas that do not join up, such as those that have been highlighted by Stephanie Fraser and others, including going from SDS to an OT assessment.

There is a lack of transparency about what support is available. For GDA members in particular, there is no accessible information about what support is available. Sometimes, they are speaking to people in social work who do not themselves know what is available and they are then referred to community navigators or people in our organisation to give them further advice. We hope that an NCS would help with that, as there would be consistent information nationally and a bit more transparency about what services are available.

As part of our future visions project, we have been testing a community navigator model, which is essentially a person who works with a disabled person, looks at their needs holistically, takes them through all aspects of their social care needs and does that work for them. We are finding that people are not able to navigate that complex system and all the different people they need to go to when they are pushed from door to door. Also, there is no accessible advocacy support or a local complaints process—it is all internal—to help them through that journey.

11:45

Marie McNair: Thank you, Sophie. Does anyone else want to come in quickly?

The Convener: Stephanie Fraser and Mike Burns want to come in.

Stephanie Fraser: I want to address the issue of complaints. We worry that local accountability could be lost if complaints services are nationalised. Our experience shows that, too often, the only way that people who experience inadequate care and support can seek change is to make a formal complaint. However, when they do, they are passed from pillar to post, with professionals trying to justify why they have done what they have done, rather than seeking to understand why the complaint was brought in the first place and to seek a remedy. We would like service users and service providers to be provided with an opportunity to work together to resolve the issues at the earliest possible stage, rather than their having to go down the route of using a complaints service that might take lots of time and resolve absolutely nothing.

Access to advocacy and mediation services should be a first step and those services should be available to all service users. We note that section 13 of the bill states:

“The Scottish Ministers may by regulations make provision”

for

“independent advocacy services”.

There is a lottery around which condition you can access advocacy services for. For example, people with a learning disability have a statutory right to access such services but people without a learning disability do not. We call on the Government to make the right to access independent advocacy available to people with cerebral palsy and their carers, and we would like section 13 to be amended to read, “The Scottish Ministers will by regulations make provision for independent advocacy services”.

I strongly support Sophie Lawson’s community navigators, which is an underchampioned role.

One of the issues that we have—this is a fundamental issue of integration—is that, when you look at people’s needs in a social care holistic—[*Inaudible*.] Cerebral palsy is a good example of that. A person might need physiotherapy to stay well, for example. However, that is immediately seen as a health issue, the person is sent down another route and they have to start again in order to access that physiotherapy, rather than that being seen as an enabler in the way that others might use regular exercise, a gym membership or something like that. There is a lack of understanding about what input for people’s condition will make the biggest difference.

Marie McNair: Thank you, Stephanie. We are pushed for time, but Mike Burns and Andy Miller want to come in. Please be brief, if possible.

Mike Burns: Yes, Marie. One of the successes that we have achieved on those issues through the test of change in the city of Aberdeen is that we have social care managers, social work social care managers and service providers working alongside each other doing risk assessments. Those risk assessments are often a way to prevent some of the complaints from coming forward. With that integrated working, the number of complaints that we receive or the issues that we have to deal with has been greatly reduced. That is just one example of what we think Derek Feeley is talking about, and we have made that happen in that test of change.

Andy Miller: I will make two very quick points. First, a lot of people with learning disabilities have said that they do not know what standards of care or support they are entitled to expect, so they do not know whether to make a complaint if they are unhappy. We think that the national care service should have a national programme to communicate people’s human rights and the right

to receive support that meets the health and social care standards.

Secondly, I echo what Stephanie Fraser said about the lack of independent advocacy. Research that we carried out a few years ago showed that the provision of independent advocacy was inconsistent and insufficient across the country. Investment in advocacy is mentioned in the financial memorandum.

Marie McNair: Thank you, Andy. I have no further questions, convener.

The Convener: I again remind everyone that it would be good if we could keep our questions and answers succinct. I also reiterate to members that they should direct their questions to one person to start with, and I remind witnesses that they can put an R in the chat function when they have something additional to share.

Mark Griffin: Trade unions and local authorities have expressed concerns about a potential wholesale transfer of staff and assets to a new directorate, essentially. However, the minister set out a different direction of travel when he was at the committee. He said that any transfer of assets or staff to the provider of last resort would be only in the event of a care home failure or a service failure.

What is the current situation in terms of the provider of last resort? How would the national care service change that in light of how the minister set things out? I will come to Mike Burns first.

Mike Burns: Good morning. GCC is a really good example of that. In the city of Aberdeen, we had one provider of last resort—the local authority in-house provider. We now have GCC, which is a consortium of independent and third sector organisations that delivers to the whole city. In fact, we deliver to almost three times what the local authority in-house provider delivers to, which would also be the case as the provider of last resort.

I know that the big question that is being asked about the potential transfer is around pensions and suchlike, but there is a three-tier structure at the moment. We must look at, understand and do something about that structure if we want to provide balanced and equal delivery of care across Scotland. National health service staff, local authority care staff and third sector and independent organisations are paid out of that one pot of money. However—I hate to say this—they are all paid differently for delivering exactly the same standard of services. As Feeley pointed out, some of the best care that is being delivered is by the third sector. There is a disparate position that we have to address. I take on board some of the concerns about the transfer of those staff, but

there are ways to look at that. We in GCC have proven that there are other ways of achieving that outcome.

Stephanie Fraser: In reality, the answer to your question is that family, friends and unpaid carers are the real providers of last resort. They are unidentified, invisible and unsupported. When things fail, families are made to feel an obligation to step in. An example is that, during the pandemic, many disabled adults had to move back into their elderly parents' homes because they could not access community support to live independently.

Family and unpaid carers are not treated as equal partners in the care of their loved ones. They are often not listened to by professionals and not supported to navigate the system. Yes, in theory, there are support networks—local care centres and general practitioners, for example—but some people do not class themselves as carers and therefore do not access the support. So, who is the carer of last resort? In reality, every day, it is family and unpaid carers.

Mark Griffin: Thanks for that.

This is my second question. The review of adult social care reported that

“Trust is not currently in plentiful supply in social care support”.

Do the witnesses agree, and do you feel that the situation is the same when it comes to national health service provision and, if not, why there might be a disparity in terms of trust not being there in social care settings but being there in health settings? That is for Sophie Lawson, first.

Sophie Lawson: Thank you. I agree that there is definitely a lack of trust in the system as it stands. That is for a variety of reasons. Let us look at the cuts that have happened in Glasgow alone since Covid. There, 1,884 social care packages were cut from the outset of lockdown. Some have been partially reinstated, but many have not. People have, for the past two and a half years, faced extreme isolation, poverty and cuts to vital services. Even before Covid, during austerity, we had in Glasgow policies such as equalisation, which was, essentially, cutting social care packages by saying, “This is being done to equalise, so your neighbour down the road will get something”. People’s vital services were cut to justify it.

As well as there being cuts, people do not feel heard or listened to. As I said, people are going for massive amounts of time without essential support and are being asked to choose between having a shower and eating that day because their carers are so pressed for time, so it is really difficult for

them to trust the system, as it stands. National change is required.

On co-designing at local level, the trust that is required for people to engage does not exist because people have seen what happened in the past. They are aware that all the new policies that have come in, such as the maximising independence approach—which I will not get in to, for time’s sake—have done nothing for disabled people. They do not have faith in the system. A new national system that is based on co-design and that makes an effort to take lived experience into account is needed. That would offer new hope that for a better system than we have at the moment.

Paul McLennan: You will be glad to know that I have only one question, as my second one has been answered. The bill is, obviously, a framework. The next stage will be the co-design and co-production process. How would you like that process to involve you? The minister has already committed to working with people with lived experience. I will come to you first, Mike.

Mike Burns: That is critical. Co-design and co-production have to be a central tenet in how we take forward the NCS bill. I go back to the example that we have in Aberdeen, where we deliver services to people with learning difficulties and older people, including personal care and mental health. We work in partnership with the health and social care partnership and all the other providers in the city. It is about having a conversation that must start with the people to whom you deliver services. They need to be an important part of that conversation. In Aberdeen, we have had co-design and the concept of collaborative commissioning. That is a central tenet of what Derek Feeley said.

Paul McLennan: I do not know whether anybody else wants to come in on that; it is a really important part of the process. We have talked about the framework and the next stage.

Andy Miller: I agree that co-design is critical. It is heartening to see the commitment to co-design from the NCS team. In practice, it is very challenging to make co-design properly inclusive. We need to make sure that people with learning disabilities are included in the co-design process; that is challenging, but it is very important.

Structures have been set up for co-design: for example, we have set up lived experience panels of people who use social care support. However, we are concerned that that is not an accessible model for people with learning disabilities, so we need to keep the conversation open. The NCS team needs to keep listening to what is working for people with lived experience and to ensure that they are properly involved all the way through.

The timescales are artificially short in order to get the legislation through in this term in Parliament, which will compromise the effectiveness of co-design because people who take a bit longer to make their contributions will be cut out. That is our fear.

Stephanie Fraser: I associate myself with everything that Andy Miller has just said. Our concern is that the process is the wrong way round—

Paul McLennan: Stephanie—I am sorry to interrupt, but I think that we heard that in evidence. In the short time that we have, the focus is more on what you would like your involvement in the process to be. I am conscious of the time.

Stephanie Fraser: In the interests of time, I will absolutely echo what Andy Miller said: the issues are the timescales and that the lived experience panels and so on are not fully inclusive and representative.

Paul McLennan: I will maybe take that up with you afterwards.

Sophie Lawson: I will be very brief. I echo everything that Stephanie Fraser and Andy Miller said. Co-design is really important, especially as we go into producing secondary legislation. It takes time and resources, but it is a really valuable and important step. People have touched on the lived experience panels. From our perspective, we need to make sure that there is a collective voice guiding things. That means disabled people's organisations having a mandate to speak in the process of co-design and it means having capacity built in to the process to make participation more meaningful.

Paul McLennan: Thank you, Sophie. I have no further questions, convener.

The Convener: That brings us to the end of our questions. Thank you so much for keeping the answers short. Stephanie, I noticed that you were cut off when you were saying something that might be important to convey. If you would put that in writing, I would welcome it.

Thank you for joining us this morning. It has been useful for the committee to hear from all of you and to hear the various perspectives.

I suspend the meeting for five minutes to allow for a change of witnesses.

12:01

Meeting suspended.

12:06

On resuming—

The Convener: We come to our second panel of witnesses. We are joined in person by Adam

Stachura, who is head of policy and communications at Age Scotland. I might have mispronounced your last name. Online, we are joined by Henry Simmons, who is the chief executive of Alzheimer Scotland, and Hannah Tweed, who is the senior policy officer of the Health and Social Care Alliance Scotland. I welcome our witnesses to the meeting. If those who are online indicate that you want to respond by putting an R in the chat box, I will make sure that we bring you in. Members will direct questions to start off.

I will begin by directing my first question to Hannah Tweed. This might be a question to which we get a response from all of you. I am interested in hearing the main problems with how social care is currently delivered. Do you agree that there is a postcode lottery in care delivery?

Hannah Tweed (Health and Social Care Alliance Scotland): The short answer is yes. As was ably covered by the previous panel, there is a wide variety of evidence available about the ways in which condition-specific and area-specific delivery of care varies, irrespective, in many cases, of actual need, which is what it should be grounded in. We have a variety of material from work that the ALLIANCE has done, in partnership with Self Directed Support Scotland, on people's experiences of accessing self-directed support and social care, which has really highlighted the range of variation.

Some areas have notably poor access: I highlight folk with experience of sensory loss, mental health problems and people with learning disabilities, as Andy Miller mentioned. That is partly reinforced by care charging and the eligibility criteria that are used across Scotland.

Information sharing informs that. When we did the "My Support, My Choice" project, we found that only 42 per cent of respondents had had social workers describe all four options with them in reviews. That is, in part, grounded in the fact that social workers are not empowered by having information to share, so people cannot make a suitable choice. They might not choose the best care provision for them—and that is before we get into the terms and conditions of specific problems with individual providers in some areas. I will pause there, because I am sure that there is a lot more that colleagues can say.

Adam Stachura (Age Scotland): As ever, Hannah Tweed has done a very good job of summing up the position exactly. There is a significant challenge. Age Scotland hears about delivery of social care from older people, their families and their carers. That is not new; it is not something that has occurred as a result of Covid-19, but has long been the position. As a charity, we have been very careful not to use the phrase

“Social care was in crisis before Covid”, but—my goodness!—it is now. We need to be very careful when we use that phrase because it cannot keep becoming a bigger and bigger crisis.

As we have heard in the past week from representatives from social care, the system is potentially on the verge of falling over, with large closures on the cards for care homes. That will be crucial in terms of people’s wellbeing. What happens if people cannot live in their own home, which is their care home? People will face incredibly long waits to receive, first, assessments for social care then, secondly, the package itself.

There was a series of good freedom of information requests from Helen Puttick of *The Times* at the beginning of the year, which she discussed with us. The responses outlined extraordinary waits of years for some people to receive their social care package. The clock stops when the person gets the first part of their care. People are waiting 1,200 days in Perth and Kinross, and their outcomes are incredibly poor. The answer to the question is yes.

However, to go back one step, I note that at Age Scotland what we often hear from people on our helpline and in our projects on the ground is, of course, the worst of it. There is a lot of great social care. As members of the Scottish Parliament, you will hear all the time about that being delivered in your constituencies and regions, but there is a significant challenge in getting good care and getting enough of it. It was mentioned by a previous panel member that a person’s care being reduced to meet budgetary or capacity needs means that outcomes for that person are far poorer than they should be, particularly in terms of their human rights.

The Convener: Thanks for that. I ask Henry Simmons whether he has anything to add.

We cannot hear you, Henry. Hang on a minute. I am not sure what is going on. I will ask my other question while you are trying to figure that out, and we can come back to you once we get your audio sorted out.

The committee has had evidence sessions on the national care service, and we have heard from previous witnesses that the bill is a disproportionate solution to the challenges that we face. I am keen to hear your views on whether we need legislation to bring about improvements. I will start with Adam Stachura.

Adam Stachura: We are in a position in which legislation is what we have got. If you look across the piece in social care, you will see how disparate it can be for those who receive it and the different systems that are in place. Everyone has talked about hearing from people who receive social care or their families about the postcode lottery. We

have a huge number of differences in the approach of integration joint boards, health and social care partnerships, the NHS and local authorities. The bill is a helpful step. If you are going to try to reform social care, you probably need a useful mechanism to do that, and legislation will be it.

Underpinning all of this is accountability and responsibility for social care. I listened to the previous panel session, during which a question was asked about the Cabinet Secretary for Health and Social Care having responsibility for that. My goodness, that is exactly the type of thing that we need from the Scottish Government, so that it is not in name only. If you go back to the beginning of the Covid-19 pandemic and the instances of people’s social care packages being removed—people were told that they would have to go without and were waiting days in their beds without being fed or washed or getting any of the things that they needed—you will see that nobody was held accountable for that.

Although that happened in a crisis, it demonstrated the absolute necessity of accountability. The Scottish Government had no levers to fix the issue, and local authorities, IJBs and health and social care partnerships were wholly remote from public accountability. If we have that underpinning responsibility in the health system, we should have it in the social care system, which is equally necessary to the wellbeing of those who receive care.

Trying to reform social care is important. That will mean many different things to many people, of course. A lot of it will be about money and resources and how those are used effectively to get the best outcomes for people. A national care service has been proposed, and we wholeheartedly support such a thing, at least in its broadest concept, but I want to bring it back to accountability and responsibility, which are massively important, and doing so through legislation, as much as anything else, is vital.

12:15

Hannah Tweed: I agree with Adam Stachura’s comments. There are parts of the system that we can work on to make improvements outwith the legislative framework. That should be happening, but that is not a fix-all. We know that the structure of, say, the SDS legislation does not deal with the problems that we have with eligibility criteria, which are some of the most pressing reasons why people do not receive early intervention care and why the point of crisis intervention is reached. I use the word “crisis” very specifically, because it is frequently the case that people are in crisis by the time that they get access to social care.

Legislation is not a fix in all ways—in particular, the ALLIANCE and our membership have concerns about the framework bill approach—but there are things that we would wish to see changed in primary legislation, and I will say more on that later. However, I will give an example of legislative protections that worked well when there were problems with accountability during the pandemic. Some local authorities temporarily suspended their complaints systems, which was not in line with their duty as public bodies. I assume that that was down to ignorance and a relative lack of support for extremely overworked individuals—I am not trying to knock front-line local authority colleagues by saying this—but, functionally, they were not fulfilling their statutory duties.

When that was raised and aired with them, the problem was dealt with pretty promptly, because there was legislative accountability and processes in place to say, “That’s not great, and here’s why.” It would be beneficial to have something that could provide similar assurances—if it was done right, which is a pretty significant codicil.

The Convener: I will try to bring in Henry Simmons again. Henry, can you respond or add anything from the Alzheimer Scotland perspective on the problems with the way that social care is delivered and the postcode lottery piece? Do we need to legislate to bring about the improvement?

Henry Simmons (Alzheimer Scotland): Can you hear me okay?

The Convener: Yes, we can. Fantastic.

Henry Simmons: Apologies—I do not know what happened there.

I will first answer the question about the necessity. There is no doubt that, as a country, we are still reeling from the changes that were made in 1996, in the days of regional councils. We have never quite been able to deliver consistent variation across the 32 local authorities when it comes to effective social care. With dementia, we are faced with a challenge on a large scale, and everyone has told you today about how difficult it is to access good-quality social care across the piece. Some big strategic plans have been made over the past 12 years, particularly on dementia, such as the national dementia strategy, which has 35 to 40 commitments, but all those commitments rely on local delivery and very few, if any, have been delivered consistently.

I can understand the situation from both sides. I can understand the point of view of a local authority that is dealing with its issues and trying to work out how best to serve its communities and deal with the challenges that it faces. We then have a Government that is putting together some of the best and, perhaps, most comprehensive

and innovative policies on dementia that could be on the table. Those two sides do not weld well together. We have national visions, strategies and agreements that would transform the lives of people with dementia from the point of diagnosis through to integrated and advanced care, but those have never really been delivered.

Therefore, if you asked us whether those strategies should come under the governance and direction of a national care service with care boards that are working to a consistent framework to give everyone the same quality of care across the piece, we would say, “Yes, that makes an awful lot of sense.”

To date, what we have been trying to do has been difficult. With the IJBs, we have brought together two types of sovereign bodies with little funding to meet a need that is already out there. Right at the start, IJBs were about saving money and trying to make the best use of resources, but they have never reached the point of doing meaningful prevention work. The point that Derek Feeley highlighted that we are very supportive of is about the sense of moving forward and thinking about prevention earlier. Even in a time of crisis, we need to move everything forward and think through how to avoid many of the difficulties that we experience now. That has to come from a national perspective, driven through care boards to local people.

The Convener: Thanks very much. We will move to questions from Willie Coffey.

Willie Coffey: Good afternoon to everyone on the panel. I want to go back to Derek Feeley’s report. One of the key stand-outs for me—I have read it many times—is the point that the driving focus should be

“consistency, quality and equity of care and support experienced by service users”.

That is at the heart of the Feeley review. Is the national care service the instrument to deliver that consistency of service across Scotland? I ask Adam Stachura to pitch in with an answer.

Adam Stachura: It could be. Obviously, detail is lacking on what will actually happen in a lot of areas. The service is being co-designed, and there will be co-production underlying the secondary legislation. The lack of consistency is highlighted when anyone comes forward to say that they are receiving poor social care, or not receiving it at all. That is not meant as a criticism of those who are delivering it because, across the piece, consistency is lacking for those who work in social care, as well.

The previous panel mentioned that there are different terms and conditions for doing the same type of work, depending on who has been

commissioned to undertake it. Some suppliers, or suppliers' providers may have to withdraw entirely from delivering social care because it is not financially sustainable. Before the latest round of the energy crisis, care homes were closing because of the financial model. Care is an expensive business, and good things cost money.

However, the national care service is important. Feeley was absolutely right in the report. We need to look at who requires care, not just now but in the future, whether they are a child, an adult or an older adult. The population is ageing, and every one of us who may need care expects to have something that meets our needs. Feeley was absolutely right that the care is not consistent. The care service could do all those things but, of course, the devil will be in the detail. We do not have that detail right now to scrutinise it properly.

Willie Coffey: Can I have a brief comment from Henry Simmons and Hannah Tweed? Is the national care service the instrument that we need to deliver consistency across the country?

Henry Simmons: The truth is that there will be variations in performance. In the national health service, for example, we do not see consistency, despite having very clear directions and guidance. Performance is always an issue, and there will be different management and so on. However, we will have consistency of principles and standards and, I hope, consistency of rights and expectations that can be delivered and measured.

Given the challenges of building any social care structure on this scale, we will always see a degree of inconsistency. However, if you ask me about the values, principles and the point about driving forward, my answer is that yes, we need a national care service that has all that up front. That should determine the structure that comes behind it, and then the performance and delivery will need an awful lot of in-depth monitoring to ensure that we achieve consistency.

Hannah Tweed: I echo Adam Stachura's conditional response and that of Henry Simmons, if I can summarise it that way. If I were getting into the Ts and Cs, I would say that a national care service potentially has more organisational capacity to do that in certain areas when compared with current systems. However, I am not sure that that is the same thing as saying that the National Care Service (Scotland) Bill provides that.

The issue of data collection was discussed with the previous panel, particularly in relation to the problems with the flags that are used for people with learning disabilities. A national approach to data collection could provide proper intersectional analysis of different population groups and how they access social care, as well as something that

is outcomes focused and managed nationally, so that the same questions and data sets are compared to highlight where things are working well and so that good practice is shared and problems are highlighted. That could be a key useful aspect of national analysis, alongside the local delivery part, which is also important and has been raised by colleagues. If you do not have such an approach, you do not know what you do not know, so you cannot deal with the problem.

I agree that there are clearly issues with varied provision in the NHS, but the NHS does not vary its eligibility criteria in different local authorities, whereas social care does. There are, therefore, areas in the current system where there are clear distinctions in practice and, bluntly, where there are not human rights-based approaches by default. Section 1 of the bill, which prioritises human rights-based approaches, is welcome, and it could result in that playing out in a more equal fashion. However, we need more detail, please.

Willie Coffey: I have another question, which I asked the previous panel and which is on accountability. Do you agree that ultimate accountability should rest with a cabinet secretary in the Scottish Government? I see that Adam Stachura is nodding.

Hannah Tweed: Ministerial accountability is a good concept. It is useful for organisations not to mark their own homework, if I can put it in those terms. At the moment, we hear again and again that, when people submit a complaint, they are not sure who is dealing with it, that the transparency is not there and that they do not know where to go if they have not got anywhere. Something that is more devolved has its benefits. However, we question the longevity of some of that and whether there also needs to be a system that ensures that party-political change does not affect people's access to accountability structures.

Henry Simmons: I think that that reflects what the public feel to be the case at present. If you look at ministers' inboxes, you will probably see that lots of people write to them to ask them to solve all the issues and difficulties in social care. The general public tend to think that the minister is responsible for social care. The challenges of social care have been difficult for many local authorities and IJBs to deal with, so the transition has to be about inclusive engagement with everyone. Ultimately, this is the right way to go, and not simply because the current system is appalling. The public are keen for their Government to be responsible for the things that close to them.

Willie Coffey: Thank you, everybody.

Miles Briggs: Good morning, panel. Thank you for joining us.

It is my understanding that Lord Brailsford, the new chair of the Scottish public inquiry into the handling of the Covid-19 pandemic, will meet families today. I welcome that. Do you and your organisations feel that Anne's law has been captured and embedded in the legislation?

Adam Stachura: I do not speak for them, but I do not think that, if you asked those who initially called for Anne's law whether this is what they intended or needed, they would say that it is. However, getting all the different elements that are required is also a pretty complicated business. We are supportive of it and have been through the whole pandemic. The sad thing is that it is necessary at all but, essentially, people's human rights were not being realised. What we did not often have was a system in which people were saying, "How can we make this happen?", as opposed to taking an approach of defence, defence, defence, and people saying, "We'll close the doors. We need to make sure the virus is stopped." There are lots of good examples of that.

I do not want to drone on too long, but there are a lot of good principles in this. I know that there are legislative timeframes, but part of the concern is how long it will take for this to be realised. At a meeting a couple of weeks ago about the implementation of care home visiting, which I am involved in, we heard that there are still inconsistencies. Doors are being closed for different reasons, such as norovirus, so the law will be as necessary in the future as it was during Covid.

Covid is much better managed now than it was before. We are meeting in person and there are no masks, for example. We are in a much better place. There is a vaccination programme, and PPE is being used and is available. It is a sad state of affairs that we are still not in a place where residents, family members and carers are able to get exactly what they need everywhere. Until the bill is passed, that will not be law. Broadly speaking, it is doing the right things, but it is not as strong as some who have been calling for it would like.

12:30

Henry Simmons: There are some fundamentally challenging issues associated with Anne's law that we have to look at too; we cannot look at it in isolation. First, part of the reason why these relatives cannot access premises is the very nature, size and scale of the premises. We know that 1,600 people with dementia probably died as a consequence of living in large-scale, group-living environments. We have to ask whether that is the right model and the way to deal with a future pandemic. At the time when everything evolved, most people placed their trust in Public Health

Scotland's understanding of how to handle and deal with the pandemic. Very few people knew how to challenge that or understood what to challenge. The campaigners in the Care Home Relatives group have made the point, made their case and won that argument, and we can never go back on that now.

As it stands, the option comes back to Public Health Scotland making decisions. That needs to be challenged. There is other evidence. There is counter-evidence, and there are emerging strong theories—[*Inaudible.*] We are in a different place for a different debate. Public Health Scotland held all the cards and made all the decisions, but it never quite understood the impact that those decisions had on the families and individuals and it perhaps still does not. We need a bigger public debate about the future of that long-term care estate. We need to question and consider it. We can never have families in that position ever again. It is not just about Anne's law—as far as we are concerned, it is about the whole position.

Hannah Tweed: To build on Henry's points, with which we are very much in agreement, I will say that it is imperative to take that learning from the pandemic about process, as well as about the specifics, and use that to inform the discussions. That could include discussions about the right to rehabilitation, the right to independent living and the way in which, consistently throughout the early stage of the pandemic, we did not see disabled people, people living with long-term conditions or unpaid carers having an input into decision making.

That has particular relevance to the proposed framework bill in terms of the material on care board representation and ministerial intervention in the case of emergencies. There is no statement about a duty to have respect for or pay attention to the principles of co-production or the principles of human rights outlined in the early sections of the bill. We would be keen to see that there, because that would be the functional threading through of some of the learning that has been referred to and of the impetus to not go back that colleagues have just commented on.

Miles Briggs: In its evidence to the committee, the ALLIANCE suggested:

"there should be scope within the Bill for the creation of an independent authority whose role is to hold Ministers to account for their decisions."

Can you outline what you see that looking like legally and what legal standing it would have?

Hannah Tweed: I should preface this by saying that I am not a legal professional.

That is centred on the concept that it is important that people can trust the process. There needs to be trust in ministerial oversight—

absolutely—but also trust that someone has the capacity to properly look out for what is and is not working. Ministerial accountability, with the best will in the world, will not involve one person, who is the cabinet secretary, having the capacity to go, “What is happening in the data that we are receiving? What gaps do we have? Where do we not know what standard of care people are receiving? What is being done to combat that? What progress has been made?” That has to be done by a team of researchers, bluntly, or some variation on that theme. Part of our proposal for the independent role in that is to support public trust in that process, but it is also to provide a useful resource that ministers can draw on as part of that ministerial responsibility role, as well as being held to account. The proposal is for a two-directional process.

It also harks back to some of the earlier comments on complaints. If you have an independent body, it can be part of a more proactive approach to problem solving, in the same way that, say, the Care Inspectorate’s reports highlight good practice. They are not all about saying, “We are putting you into special measures”—far from it. It is something that can straddle that space and be available for disabled people and for people who are accessing services to be aware of, but also for staff and the workforce, so that they can raise concerns and suggestions and flag items.

Miles Briggs: That is helpful, thank you. I do not know whether anyone else wants to make any points about that suggestion. If not, I am happy to hand back.

The Convener: Nobody has indicated. Thanks, Miles.

I say again that members should direct their questions and allow the panel to indicate that they want to come in on that question. Please, everybody, keep your questions and responses succinct. We move to questions from Marie McNair, who joins us online.

Marie McNair: Thank you, convener, and good afternoon to the panel. Thank you very much for your time.

I am going to follow the same line of questions that I put to the previous panel. Obviously, we want to know about the impacts of integration joint boards. I want to tease out whether the model has had enough time to bed in and make a difference. What are the implications of replacing them with care boards? I know that there has been a bit of discussion about that already, but could you expand on that a wee bit?

Hannah Tweed: On the question of whether IJBs have had long enough, I do not have the same breadth of experience as colleagues who

were involved in the 2014 set-up. However, we have clear evidence that they are not meeting the needs of disabled people, people living with long-term conditions or their carers on a consistent basis. Part of that is due to the legislative framing of integration. A key example of where I think that care boards have the potential to meet the problem is representation of lived experience and of the third and independent sectors, in that we see real variance between boards that do and do not have those posts in IJBs. Those that do may have the available post, but it is not filled, or it may be that, functionally, the order of business is 9 am meetings for which you have to read 50 pages over the weekend. We have frequently heard from people with unpaid carer responsibilities who say, “I can’t do a 9 am slot because that is when the support comes in.” Those are the nuts and bolts, but the current system is not designed to engage properly with people who have lived experience of accessing services.

If care boards are required from the outset to have people with lived experience on them in order for decisions to be quorate, that is a very different political landscape in terms of the language of co-production and input into decisions, which is a key part of that definition. We would like to see that fed through the whole process of wider health and social care design. Although it is very welcome that the bill, in its current state, acknowledges that possibility and highlights the possibility of paying people properly for their time rather than just giving them expenses, which is another problem in the current system, it is not listed as an essential. With the best will in the world, if something is not a requirement, it will be the first thing that goes when people are under pressure. That is something that we would really like to see changed in the structure of the bill.

If care boards can learn from things such as the people-led policy panel and the success of some of the really good work that happened around social security and co-production, that would be very welcome and could potentially be a much more meaningful engagement with co-production on an on-going basis than we see in IJBs.

Henry Simmons: I do not think that IJBs have worked. There are a number of very important and significant issues, some of which have been mentioned. One of the areas that I point to is that the process of commissioning and subsequent procurement through IJBs has led us on to the path of crisis in social care. Specifically, I highlight the non-committal framework tendering agreement that the IJBs have adopted across the country. I was fortunate enough to chair an inquiry on behalf of the Fair Work Convention. We looked very carefully at all this, and we made some recommendations in 2019, one of which was to

see the IJBs driven through these framework agreements. Many organisations, and, indeed, many of the employees within them, carry the burden of risk and the burden of availability within social care. That, for me, is a failure of planning and of proper commissioning. That is what leads to organisations having zero-hour contract workers and not knowing how many hours of work will be required.

All that feeds into the willingness and desire of someone to work in social care. We have over 1,000 organisations and about 200,000 staff, 89 per cent of them women, and we do not have a collective voice for that group in the workforce at all. That is where social care has started to come under more and more pressure and have greater difficulties. That lack of significant planning, proper commissioning and making sure that organisations are given the right level of contract with the right number of staff to deliver the needs has led us to the crisis that we are in. That is one area that IJBs have struggled with.

I do not think that the cultures have ever really merged. They have a name, a logo and a label, but do we really have one culture among all that that was put into those individualised IJBs? Probably not. Moving forward, the idea of not having two different line management structures and two different reporting procedures, and having one national care service, seems to make sense, but there is a lot of work to be done in delivering that.

Marie McNair: Do you recognise the situation expressed by the minister last week that people currently feel that they are being pushed from pillar to post if, for example, they have a complaint or concerns about the service? Do you share that view?

Henry Simmons: First, it is very difficult to find out who to complain to, how to complain or where to go. My experience of people is that they complain only when things get really serious and significant. I would certainly support that view. That is a fair, true and accurate reflection of what is happening just now.

Marie McNair: Very briefly, does anyone else want to come in on that question?

Adam Stachura: I will be brief. If you look at accountability for IJBs, you find that there is not that much interest among the public. If you ask the public who are on the IJBs and what they do, you find that there is very little understanding. A report from Audit Scotland a couple of years ago stated that they had not worked—yet. So there is a question about whether they need more time. However, do we have time to wait for that? Will that in itself fix social care? That is such a broad ask. To fix social care is pretty tricky.

If you are going to look at a national care service, there is a model to support that through care boards, but, despite a lot of good work by the IJBs, their commissioning work has been a race to the bottom in terms of the cheapest costs for people to procure care. There is a lot more that they could do, and I do not think that we have time to see whether that settles.

The Convener: Hannah, I see that you want to come back in on the question of people being moved from pillar to post.

Hannah Tweed: Yes, they are, but one specific area that I would like to flag—often, not a lot of attention is paid to this—is the need for a complaints system and redress to be accessible to the family and friends of people who had accessed or wished to access care and have since passed away. At the moment, in the current system, investigation essentially ceases in many cases after an individual has died. That is not fair on those families, and is not fair on those individuals. It also sets a poor precedent in terms of learning and the ability to build on situations when things do not work. We would strongly welcome material that would alter that current state of play.

Marie McNair: Thanks, Hannah. No further questions, convener.

12:45

The Convener: Thanks for flagging up that aspect, Hannah.

Mark Griffin: We have heard concerns from local authorities and trade unions about the prospect of a wholesale transfer of staff and assets to a new national service. Last week, the minister tried to allay those concerns by saying that it would only be a provider of last resort, in the event of a failure. What has led to that level of confusion? Why was there such concern in the sector about a wholesale transfer of staff? What would be your view on that if it came to pass?

Hannah Tweed: I am responding on the hoof, but I and a number of colleagues had not read the bill in the way that has since been outlined by the minister. The understanding had been that there is the possibility of wholesale movement of staff, and that caused understandable concern, particularly, among other areas, the sections where it was explicit that NHS staff would not be moved. That led to a question about what it would mean for NHS Highland, which provides social care for adult services. There was significant confusion among third sector colleagues about those sections.

If, as the minister outlined, the transfer of staff will happen only in an emergency, I would return to my comments about being clear on the definition of an emergency and on the length of

time—whether it is permanent or short term—and how the human rights of people accessing services and of the workforce, with fair work embedded throughout, will be respected throughout any such process. Material on that would reassure people because, at the moment, there is considerable uncertainty in a sector that is already coming under considerable pressures, and stress is not a desirable addition in that context. Does that make sense?

Mark Griffin: Yes. Thanks.

My other question is about trust. The review report said:

“Trust is not currently in plentiful supply in social care support”.

Do you agree with that? Do you recognise that there is a difference between trust in social care and trust in the NHS? Why do you think that might be?

Adam Stachura: There is certainly an issue of trust on both sides—those who receive social care and those who deliver social care. A lot of folk, such as key workers in social care, might have a lack of trust in the system or maybe even in their employers or in what they are getting themselves, including their pay, conditions, training and all the things that support the system. There is an extraordinarily heavy burden on unpaid carers to pick up everything when it comes to making sure that their loved one is in the best health possible.

If you look at the past two and a half or three years, you will see that social care has probably had the worst period of public relations it could ever have had. That is not for the want of trying to do a really good job; it has just been faced with a crisis. At the beginning of Covid, care homes and social care providers were left on their own to try to find PPE. We have heard those stories and cannot forget them. People were going on Amazon to try to find anything, but it was channelled, broadly speaking, to the NHS.

It might come out in the wash after the independent UK and Scottish inquiries how those things happened. The response, and what happened in social care, meant that social care was hard to deliver because of those types of things. We are talking about trust, and it certainly felt like the NHS was protected far more than social care. There is an incredible hangover from that. People had their social care packages removed with no warning, or, indeed, those packages were not returned to levels that were initially assessed as their need. It is not just about what people get now. At some point, they have been assessed as needing a certain amount of care and then, all of a sudden, they no longer need that much care.

There are big challenges, and a lot of it is about resource and making sure that people can access as much care as they need when they need it.

The Convener: Henry Simmons would like to come in, and he wanted to come in on the previous question as well, so if he could pull those together, that would be great.

Henry Simmons: On the trust issue, it is important to understand that the majority of the public get a surprise when they start to require social care services, because they end up in a form of financial assessment and have to contribute to paying for them. That has been very varied across 32 authorities, particularly for our group of people, who we are most concerned about. When they reach an advanced stage of dementia, they might need to go into a care home. They then face bills of £1,200 per week. They think that care will be free—the public generally think that care will be free. When people enter the social care arena and realise that it is not free, that obviously affects their perception of it. We have a kind of damaged psychological contract: you work for your whole life, but when, all of a sudden, you need something, you have to pay for a component or all of it. That really impacts on trust, whereas you never experience that with the NHS; you tend to receive the care that you require, albeit that you may have to wait for it for some time in various situations. We have two very different approaches and structures but a similar perspective on them and, ultimately, that leads to significant damage to trust. Indeed, we have a campaign, which I will not go into now, to target inequalities in that. It is something that you must bear in mind, however: social care has always had a means-tested charging ability that makes people very confused and causes a failure of trust.

Paul McLennan: I have a couple of questions. We talked in the previous session about the framework element of the bill. I will move on to co-design, which is the next stage. As we move forward, what would the panel members like to see their part in the co-design process being?

My second question is this. The minister mentioned last week that

“the national care service probably represents the greatest opportunity that has existed for the profession for a very long time”.—[*Official Report, Local Government, Housing and Planning Committee*, 15 November 2022; c 35.]

What are your thoughts on that comment? I will put that to Hannah first and then open it up.

Hannah Tweed: First, the ALLIANCE is very interested in being involved in co-production work so that we can share as many opportunities as possible as widely as possible with our membership. The feedback that we have had from our members thus far is that, although many of the

existing structures around co-production are really good, they are not transparent. That goes back to the questions of trust that have just been outlined. We could also see on-going improvement in inclusive communication and access for specific population groups.

Paul McLennan: When you say “not transparent”, what more transparency would you like to see?

Hannah Tweed: Off the top of my head, it is welcome that you have the lived experience expert panels but, from the information shared, it was not clear whether those were selective or whether everybody who wanted to be involved would be involved. It is about basic comms, essentially. A lot of information is shared online only: what does that do for digital choice, digital access and the population groups who will just not hear about stuff? There is a lot of material there.

We have also heard concerns from our membership about the timescales, particularly given the developments across mainstream national care service work and the questions about whether to include justice services and children and young people’s services. There are real concerns about making sure that we do not retrofit and that children and young people’s services are included, because a retrofitted system will not be fit for purpose or properly co-produced. It is about making sure that that co-production work is fully inclusive of all potential groups from the outset, because universal accessibility is no bad thing, even if parts of the system are not included in the end.

On opportunity, the mentions of fair work are welcome, but not having a lot of detail has raised some concerns. There is potential for this to be an opportunity. Yes, we know that there was a pay uplift for social care staff, but a pay uplift does not come with an on-going promotional track, as the NHS offers, so something that could do that would be welcome. Similarly, that uplift did not apply to children and young people’s social care workers, so some existing disparities are being perpetuated. Can that be addressed? We have also heard substantially from colleagues in the sensory loss sector, for example, who talk about the expertise that is required to be a guide communicator. That is not noticed or acknowledged in the current system, even in continued professional development or in pay and conditions.

There is a lot of scope to improve. Whether the bill will improve those things is another question, but the opportunity is welcome, particularly if there is a drive to get into the nuts-and-bolts stuff and see meaningful improvement for the sector.

Henry Simmons: The national care service needs to have alongside it an agreed body that represents the social care workforce. We need standard terms and conditions, and we need to move away from the variation that we have across the whole sector and give people a sense of security. Again, that was recommended by the Fair Work Convention’s report, but it has not happened yet, and it really needs to happen.

It would be very difficult to co-design the next stage of the bill without including everyone. It has to be chunked into specific areas and bits of work, and people need to be brought in and engaged with from the beginning, but perhaps in more depth across different pieces. For example, my organisation has been campaigning and working with members for 40 years. We have many thousands of members and we have active voice groups, and they all want to be part of the process. We have to find a way, at the right point in time, to use that skill and expertise and to use and rely on the third sector, which exists to do the very thing that the Government now wants to be done. I do not think that the Government needs to create a new methodology of co-production. We have been doing this for decades. There is a lot to learn from our sector, and we can do a lot more in partnership as opposed to creating new structures—[*Inaudible.*] There are a lot of organisations out there that can be engaged and supported. However, that requires some investment, funding and thought.

Adam Stachura: The first part was about involvement. There is a lot of insight from older people, carers and family members that Age Scotland’s helpline will have collated over many years. The helpline advisers will know what people are calling about in terms of what is good and what is not so good. That is something that we would want to offer for the general public take on it. We also have elements of work that are there to support people who have experience of dementia. We need also to include ethnic minority older people and LGBTQ+ older people and make sure that their voices, experiences and aspirations for social care are heard. It is as much about the future as it is about today. The national care service will not fix tomorrow the problems that we face in social care today but, looking into the future, we want to make sure that, as more people need care, whoever they are, whatever they might need and wherever they are, that is fully recognised and understood.

It is for organisations such as Age Scotland and many others to test and scrutinise the ideas that come out of the co-design and co-production processes to work out whether we think that they will work. That is another issue. Often the Government will say, “Let’s take a blank piece of paper, all come together and create this thing”.

Sometimes, you want a little bit of leadership from the Government and for it to say, "This is how it will work in practice. This is the framework that we have and this is how the world operates. What do you think could improve that? Where are the blocks to that happening?"

Paul McLennan: Thank you, Adam. I am conscious of the time, so that is me finished.

The Convener: Thanks, Paul. We have come to the end of our questions. I thank you all for joining us and giving evidence today. It has been useful for the committee to hear your reflections on the National Care Service (Scotland) Bill.

We agreed at the start of the meeting to take the next two items in private. Therefore there is no more public business today, and I close the public part of the meeting.

12:59

Meeting continued in private until 13:38.

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