



OFFICIAL REPORT  
AITHISG OIFIGEIL

DRAFT

# Health, Social Care and Sport Committee

Tuesday 24 September 2024

Session 6



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**Tuesday 24 September 2024**

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**HEALTH, SOCIAL CARE AND SPORT COMMITTEE**

**25<sup>th</sup> Meeting 2024, Session 6**

**CONVENER**

\*Clare Haughey (Rutherglen) (SNP)

**DEPUTY CONVENER**

\*Paul Sweeney (Glasgow) (Lab)

**COMMITTEE MEMBERS**

- \*Joe FitzPatrick (Dundee City West) (SNP)
- \*Sandesh Gulhane (Glasgow) (Con)
- \*Emma Harper (South Scotland) (SNP)
- \*Gillian Mackay (Central Scotland) (Green)
- \*Ruth Maguire (Cunninghame South) (SNP)
- \*Carol Mochan (South Scotland) (Lab)
- \*David Torrance (Kirkcaldy) (SNP)
- \*Tess White (North East Scotland) (Con)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

- Keir Greenaway (GMB Scotland)
- Pauline Lunn (National Self-directed Support Collaboration)
- Simon Macfarlane (Unison)
- Katie MacGregor (Allied Health Professions Federation Scotland)
- Stephen Morgan (Social Work Scotland)
- Colin Poolman (Royal College of Nursing Scotland)
- Frank Reilly (Scottish Association of Social Work)

**CLERK TO THE COMMITTEE**

Alex Bruce

**LOCATION**

The Sir Alexander Fleming Room (CR3)



**Scottish Parliament**  
**Health, Social Care and Sport**  
**Committee**

*Tuesday 24 September 2024*

*[The Convener opened the meeting at 09:15]*

**Decision on Taking Business in**  
**Private**

**The Convener (Clare Haughey):** Good morning and welcome to the 25th meeting of the Health, Social Care and Sport Committee in 2024. I have received no apologies.

Agenda item 1 is to decide whether to take items 4 and 5 in private and whether to consider in private oral evidence on the National Care Service (Scotland) Bill that is taken at future meetings. Do members agree to take those items in private?

**Members indicated agreement.**

**National Care Service (Scotland)**  
**Bill: Stage 2**

09:15

**The Convener:** The next item is the first session of our scrutiny of the Scottish Government's proposed stage 2 amendments to the National Care Service (Scotland) Bill. I welcome Keir Greenaway, senior organiser at GMB Scotland; Simon Macfarlane, regional manager at Unison; Katie MacGregor, policy and public affairs lead at the Royal College of Occupational Therapists, who is representing the Allied Health Professions Federation Scotland; and Colin Poolman, director of the Royal College of Nursing Scotland. We move straight to questions.

**Tess White (North East Scotland) (Con):** Good morning. My first question is for Keir Greenaway. In your opinion, what impact would shared accountability arrangements have on the workforce?

**Keir Greenaway (GMB Scotland):** Our members in the GMB are unhappy with the bill as it stands. We have made that clear. They have voted to renege on our support for the bill, because they see no future in it—it does not achieve anything that they are looking for.

We have put a lot of energy, time and effort into the bill. Our representatives, who are front-line workers in private care and in care in the public sector, have put a lot of energy into it, and they do not see it moving forward in a way that would be suitable for them. So far, they do not see their terms and conditions or their pay being improved by the bill.

Our members see no voice for them on the national board, which we have consistently asked for trade union seats on. We knew that there would not be a lot of detail in the bill, but we have had no commitments or reassurance that there will be trade union seats on the national board. Our members' perspective is that they have lost time on the bill and they do not see a way forward for it.

**Tess White:** Your submission said:

"The NCS Board will ... be just another layer of bureaucracy in an already bloated ... sector unable ... to tackle the issues of those caring and receiving care."

Will you elaborate on that?

**Keir Greenaway:** We were hoping that the national care service would bring forward monitoring and enforcement of private sector providers, because we know that that sector is where our members are most vulnerable with regard to their terms and conditions, their pay and

their treatment in the workplace. However, we see no teeth in the bill.

There is no active reassurance that there will be reform of integration joint boards. IJBs are wholly undemocratic. Votes are taking place in which elected councillors are voted down and decisions on cuts are made. For us, there is no way forward on the bill at this moment.

**Tess White:** I ask Simon Macfarlane, who is speaking for Unison, whether he has something to add on the impact on the workforce.

**Simon Macfarlane (Unison):** In relation to what the national care service delivers, the impact on the workforce will be negligible. The fundamental problem in social care is that we cannot talk about it without talking about the staffing crisis in it, which results from a failed market that does not deliver for care recipients or care workers. In 2024, care services are built on £12 an hour, which is unsustainable and uncreditable.

We have long championed a national care service—indeed, we were one of the first to argue and advocate for it. However, we need a real national care service—we have sent the committee information on it previously—which must start with the fundamentals of removing the failed market in social care, expanding public provision and investing in staff who deliver care.

**Tess White:** What about the impact of the shared accountability of the NCS board?

**Simon Macfarlane:** Shared accountability has not been delivered. The Verity house agreement talked about shared accountability between the national health service, local government and the Scottish Government, but the proposals that are in front of the committee today, such as they are—at this stage of the bill, we are in the unique situation of working on the hoof, to some extent—show that the Verity house agreement has not been delivered with regard to shared accountability for local government. The power still lies with ministers to determine which services are in and out of scope and ultimately to step in and intervene and completely remove democratic local control.

**Tess White:** My next question is about the impact of shared accountability arrangements on those who use social care and support services. I ask Keir Greenaway of the GMB to answer that question.

**Keir Greenaway:** Sorry—could you repeat that?

**Tess White:** Yes. What impact would shared accountability arrangements have on those who use social care and support services?

**Keir Greenaway:** There is no clarity regarding where the shared accountability will come from on

the NCS board. We have been given no assurances that there will be trade union seats on that board. Without trade union seats, we will not be able to raise, through that board, the perspective of the front-line workers who deliver the service, yet we would expect the board to reflect that perspective and to have front-line workers at the heart of what is going on, because they are the ones who see, know and deliver what happens absolutely every day.

**Tess White:** The GMB has said that

“these plans only add bureaucracy to a service that is already choking on it.”

Would you like to add anything to that?

**Keir Greenaway:** We do not see how the introduction of the NCS as it stands will drive monitoring and enforcement, because there is very little in the bill about how it will do so. We have asked about IJB reform, and there is no discussion about it. Nothing in the bill gives us confidence that it will drive up pay or improve the terms and conditions of our members, yet that has to be key to delivering the national care service that we want.

As Simon Macfarlane pointed to, we are all in favour of a national care service as a concept, which has broad support. Unfortunately, the bill does not have that support, because it does not deliver on that.

**Tess White:** Would you like me to repeat the question for Unison?

**Simon Macfarlane:** The issue about the board’s shared accountability is that, as it stands, the bill does not deliver on it. The major concern at stage 1 was about a power grab on local government. Significant elements of that remain, which is why you have submissions from the Convention of Scottish Local Authorities that set that out. We do expect that a workers’ voice will exist on the board if the bill progresses, but we do not think that it will be sufficient to counter the impact of the removal of local democratic control.

The issue in care is not complicated—people need quality, consistency and time. The bill does not deliver on any of those aspects for the people who receive or deliver care. The fundamental problem in social care in Scotland is the lack of those elements. That comes down to resources and the significant extraction of the money that is in the system through private profit and offshoring of the limited resources that are invested in social care.

**Tess White:** I have a follow-up question, which will be brief. In relation to the shared accountability of the board, your submission says that the board is a quango that risks “creating confusion”. Will you elaborate on that?

**Simon Macfarlane:** The board will be a new structure that oversees strategy for the NCS. However, as I have said, the strategy is not complicated. People need quality, consistency and more time in care. We have known that for a long time. What the NCS board will do is take away local democratic control from local government and, it would appear, from the NHS in terms of the services that come out of the boards.

**Ruth Maguire (Cunninghame South) (SNP):** Good morning to the witnesses. Thanks for being with us. I will come back to Keir Greenaway on one of the questions that Tess White asked. I hear you loud and clear about union representation on the board. She asked what difference that could make to service users. I appreciate that, as a union rep, you are here to talk about pay and conditions for the workforce, but what difference could having front-line workers represented on the board make to service users?

**Keir Greenaway:** When it comes to how we would expect a board to be made up, trade union members on the board would represent the staff who see service users every day. Our members and our reps are just as passionate about the service users as they are about their pay and their terms and conditions. Having that link straight into service users—that is, having on the board the people who look after and care for service users every day—would be invaluable. That is why we should not just have a seat at the table; we should be a large and impactful voice in the room.

**Ruth Maguire:** On a point of clarity, you said that the GMB had withdrawn support for the bill. Had it ever formally supported the bill in its form as a bill? I appreciate that you support a national care service.

**Keir Greenaway:** We spent hours and endless resource on engaging with the bill and trying to get it into a shape that would deliver for our members. We are now going to concentrate our efforts elsewhere. A lot of resource, effort and time was put into it—not just by paid trade union officials but by care workers who gave up their time to take part and be consulted on the bill. We think that their time is better used elsewhere.

**Ruth Maguire:** Do other panel members have comments on the importance of having a union voice at the board?

**Katie MacGregor (Allied Health Professions Federation Scotland):** I represent the Allied Health Professions Federation Scotland, which represents 12 professional bodies of allied health professionals across Scotland. AHPs collectively make up the third-largest clinical workforce and include speech and language therapists, physiotherapists and occupational therapists.

I echo the points that Keir Greenaway and Simon Macfarlane made about union representation at the strategic board level. That needs to be included in the bill so that our input and representation at that level are on a statutory footing and are guaranteed. If those people's voices do not have a statutory footing, we will risk losing that representation. Those are the people who really understand what the issues, the challenges and the solutions are.

From our point of view, the crisis in social care is a very well-known issue. It is time that we used the opportunity to build something and not just produce bills and create agencies that do not have the representation to deliver against the challenges.

09:30

**Colin Poolman (Royal College of Nursing Scotland):** This is complex. One thing that we welcome is the proposal that all members of the national care service board should have full voting rights. That is extremely important.

We believe that workers should be represented through trade unions, but we also believe that the complexity of care requires representation. For example, from a strategic point of view, there must be nursing expertise on the board. We need to appreciate that care, including social care, is much more complex than it has ever been. If the people with the expertise, or their representatives, are not on the board, we will not deliver for the people who we are here to deliver for. It is really important that we get right the make-up of the board.

**Simon Macfarlane:** It is important to remember that social care in Scotland is largely provided by low-paid women, many of whom are part-time. As Keir Greenaway said, as well as caring passionately about the people they care for and their work, many of our members look after family members as unpaid carers and face all the challenges that we all face in navigating through the care service. They have a dual and unique voice, both as professional caregivers and as individual caregivers. We represent thousands of social workers, too, and it is very important that their voice is heard and represented on the national care service board.

**Sandesh Gulhane (Glasgow) (Con):** I declare an interest as a practising NHS general practitioner. I have a question for Keir Greenaway and Simon Macfarlane about the shared accountability agreement. If COSLA withdrew its support for the national care service, would the bill be dead in the water?

**Simon Macfarlane:** COSLA has submitted huge reservations about the bill. One of the unique, integrating and unifying things about the

bill is that it has united a raft of civic Scotland either to oppose it or to say that it needs huge amendment. So far, the Government seems determined to progress the bill. Unison's position is that the bill should be withdrawn and we should get back to consulting and engaging on a bill that will deliver a real national care service that will have the trust, confidence and support of not just Unison and other trade unions but wider civic Scotland.

At this stage, our message to the Government is still to row back from the bill, to get back round the table and to get something that is fit for purpose.

You can see the extent of COSLA's concern about the proposals, the threat of a power grab, the lack of democratic control and the failure to deliver on the commitment that was given in the Verity house agreement on shared accountability. The amendments do not include anything on shared accountability. Ultimately, power and responsibility still lie with the Scottish ministers.

**Keir Greenaway:** It would definitely be another nail in the coffin were COSLA to do that.

It is probably more important that the Scottish Government recognises the lack of enthusiasm and support from the workers who deliver care every day. That comes from their voice through their trade unions, which have made it clear that there is no support for the bill in its current shape at this time. There is wide-ranging support for a national care service, which tells you that the bill is not appropriate in its current form.

**Sandesh Gulhane:** In its written comments on the amendments, the Royal College of Occupational Therapists talks about

"multiple pressures facing the bodies providing the services. The NCS must ... turn the tide on these structural and systemic pressures".

Will you elaborate a little bit on the "multiple pressures" facing the body for occupational therapists?

**Katie MacGregor:** I can, with the caveat that I am here to represent the AHPFS, not just occupational therapists.

Currently, occupational therapists are employed by local authorities, with the exception of Highland Council, where a different integration agreement is in place. There are many challenges, particularly in teams with occupational therapists and social workers that also have occupational therapists who are employed by the NHS. The terms and conditions in their contracts are different from the terms and conditions of those who are employed by local authorities. We would hope to see that issue addressed in the NCS—for there to be parity between the two different employers and for there

to be parity between the care service and the NHS.

Similarly, we have huge concerns about the proposed national social work agency—

**Sandesh Gulhane:** We will be coming on to that, and I do not want to steal anyone's thunder.

Does the proposed NCS address what you have just said?

**Katie MacGregor:** No, I do not believe that it does in its current form. We support the vision of the NCS and the principles that are behind it. The allied health professions very much deliver against all the principles that have been outlined in the bill.

Our position paper on the bill has been shared with you. It is nice to have this nice vision and these nice principles, but what will be the outcome from the bill? What practical things will change as a result? We do not have enough detail in the bill to tell us what will happen as a result of the legislation—whether there will be parity between the professions, whether there will be the resources, funding, support and workforce planning, and whether there will be all the other practical things that need to be done to turn the tide on this crisis.

The principles are a really nice idea, and we can all agree with and support them, but what practical changes will result from the bill? We do not know anything about the funding—there have been no financial indications in relation to what will result from the bill. Until we have further detail on that, it is hard for us to comment on the efficacy of the bill at this point.

**Emma Harper (South Scotland) (SNP):** Good morning. There are 25 pages of amendments to the bill. In section 17, in part 4, chapter 2 of the marked-up version of the bill, there are a load of subsections about membership of the board. I want to pick up Keir Greenaway's point about people who should be represented on the board. One of the subsections refers to an individual being

"appointed on the basis that the Scottish Ministers believe that the individual will make an important contribution to the Board's work on account of the individual's being, or having been, a carer within the meaning given"

by the relevant section. Therefore, there is already a proposal for carers to be part of the membership of the board.

I am interested in the fact that this is a framework bill with a co-design process, on which work has started already. Does the membership of the board need to be clarified further? Should the bill be amended to state that the board should include a union representative, for instance?



**Keir Greenaway:** Yes, I think that it should go further. My understanding of that amendment is that the appointee to the board would be a single person who is a carer, not someone who is a representative of tens of thousands of carers in the sector. There should be a trade union voice on the board for carers in the sector and for ancillary staff. Ancillary staff in the care sector, whether they are domestics or people working in laundries—whatever their skill set—need to be represented through the board.

**Emma Harper:** The language needs to be clarified, to ensure that the individual represents the wider workforce in the care sector.

**Keir Greenaway:** Definitely. We have been raising that issue for months and months—it has probably been years—with every cabinet secretary we meet about the national care service, explaining why the trade unions need a seat at the table

**Joe FitzPatrick (Dundee City West) (SNP):** Simon Macfarlane and Keir Greenaway suggested that one of the reasons for their opposition to the bill was what they described as a power grab from and a loss of local accountability to local government. Simon mentioned the Verity house agreement a couple of times. I note for the record that I was the minister who was responsible, along with the then Deputy First Minister, for taking forward that agreement.

One of the key aspects of the Verity house agreement is that the Government should not interfere in pay negotiations, which are devolved. How do we address the matter given that, on the one hand, you are saying that we should respect the agreement and that there should be local accountability, but, on the other hand, every time that there is a pay dispute, both unions come forward and say that the Government should get involved, which goes against what the agreement says?

I would also like a quick comment on the fact that, as MSPs, we frequently hear constituents complain about what they call a postcode lottery—that is, that care services are different depending on where you live. How do we balance that call by people who use the services across Scotland with your call for local accountability? Either Simon or Keir can respond.

**Simon Macfarlane:** The Verity house agreement said absolutely nothing about the council tax freeze, which took tens of millions of pounds out of local government and made the situation in relation to local government pay impossible. The Government needs to play fair and it did not do so with the council tax freeze. We still suffer the consequences of that—

**Joe FitzPatrick:** My question was about pay.

**Simon Macfarlane:** Well, you referenced the Verity house agreement, and I am telling you that the issue of pay is so fraught in local government because it is so underfunded by the Scottish Government. That has been the situation for many years.

The reality is that pay in social care is unacceptably low, which is why we have a crisis. Pay is predicated on £12 an hour, which is not a credible rate for the highly skilled caring work that our members are asked to deliver.

On the power grab issue, it should be for democratically elected local politicians to be responsible for delivering care services locally and employing the staff. Although the staffing issue has been resolved for now, provisions that direct that services are nationally provided remain in the bill—there is even the suggestion that provision of services could be transferred from one national care service local board to another. Like many things in the bill, how that would work and how it would impact on staff is entirely unclear, but it is a matter of concern that swathes of services that one local authority runs could be taken into the Government's control and given to another NCS local board to run.

**Keir Greenaway:** I did not come here to talk about pay and the Verity house agreement, but I echo Simon's words that the Verity house agreement would have ruled out a council tax freeze, as far as I can see. On pay, we ask for increased funding for local government to deliver a pay rise.

The GMB was looking for the national board to have more teeth than it has been given in the bill around monitoring and enforcing standards. Thousands and thousands of our members are in private care, and they need that monitoring and enforcement of standards in their own terms and conditions, and in the services for the people they look after, to drive care, increase their pay and improve their terms and conditions.

**Joe FitzPatrick:** You are then asking for a national board with more powers. If power goes there, it must come from somewhere else—if it is shared—but you want it to be meaningful.

**Keir Greenaway:** We are asking for monitoring and enforcement powers to ensure that the quality of service, as well as fair terms and conditions and pay, are being delivered for care workers and for care users.

**Joe FitzPatrick:** That is helpful—thank you.

**Colin Poolman:** On pay and bargaining in social care, whether it is done in a national care service or somewhere else, how we pay people in social care, especially those who work for third-party organisations, is a disgrace, both around

contracts and the negotiation of pay and terms and conditions. If we are going to make progress, there needs to be equality across health and social care. That is a major issue for us. We have a workforce crisis, and if we do not grasp it, it will continue and get worse.

**Joe FitzPatrick:** I apologise for not asking Katie MacGregor whether she wanted to comment on that.

**David Torrance (Kirkcaldy) (SNP):** Good morning. My question is around the national care service principles and fair work. To what extent do the witnesses think that the amended principle relating to fair work better reflects and provides greater reassurance as to how fair work should be embedded in national care service services?

09:45

**Simon Macfarlane:** Of course we support the fair work agenda, but our experience has not been wholly positive. Public authorities tend to ask us to sign up to agreements that talk about how they treat their staff, and we are trying to push that out to say that it is not only about how they treat their staff as direct employees and engage with us as their representatives, but about how the workers in commissioned services are treated. Nowhere is the issue more prevalent than in social care, where, as I said, there is a failed market that sees people employed on £12 an hour.

We know from Covid that the sector is rife with employers who do not pay sick pay, to the extent that the Government had to step in and underwrite sick pay so that people with Covid did not continue to go to work during the crisis.

A few years after Covid, money was committed to delivering sick pay across the sector but last year the Government took that money away—the missing millions, as we refer to it—so we still have a social care service where many employees do not have sick pay and could be going to their work with Covid today. The failed market and the treatment of staff within it are huge issues.

We have had fair work in Scotland for a period of time and we have had the notion of ethical commissioning for even longer, but we can see all around us that those mechanisms completely failed to deliver for the workforce and the people who receive care.

**Keir Greenaway:** We want fair work embedded in a national care service, but we are concerned that the bill does not have enough teeth to enforce fair work.

We are in multiple fair work working groups, which are moving glacially slowly. As Colin Poolman points out, not having sectoral bargaining in the sector is a failure. Until we empower

workers in the sector to bargain for themselves, we will not get over the poor wages, terms and conditions in the sector.

**Colin Poolman:** We are clear that the bill does not go far enough in relation to fair work, nor, as colleagues have said, does it go far enough on the principle of how that would be enforced by the bill. That is incredibly important. As I have said, I am here to represent nursing staff, and nursing staff should have equity of pay, terms and conditions wherever they work. Systems to support them should also be in place, and fair work covers that area, too. Fair work includes training and development and how we recruit and retain people, and we think that the approach in the bill needs to be strengthened.

**Katie MacGregor:** I echo completely what Colin Poolman said. For us, it is about parity and representation. It is about those in the allied health professions having pay, terms and conditions that reflect the work that they do and the services that they deliver. It is also about career opportunities and progression. What opportunities are there for training and development? Are resources available? Are the opportunities relevant to their area of service? For example, occupational therapists working in local authority teams do not have the same access to training and opportunities to develop as those in the NHS, because the opportunities are not always applicable to the local authority setting. It is about parity between those different professions and settings.

It is also about giving staff the opportunity to have an effective voice and influence decisions at that level. Again, it goes back to representation. You need to engage with people in a meaningful way to ensure that anything—fair work, for example—is delivered in a meaningful way, so that it is not just a principle but is deliverable and has a positive outcome.

**David Torrance:** On that point about the amendments on fair work, are they strong enough for private sector employers to ensure that a minimum standard is set and that there is a set of standards for employees?

**Simon Macfarlane:** I do not think that they are strong enough. We are five years on from the Fair Work Convention's report on social care, and it has made very little difference to the experience of care workers in Scotland. We have some glimmers of hope around sectoral bargaining—some progress has made there—and collective voice. However, as Keir Greenaway has said, progress has been torturously slow, and we in Scotland are in danger of being overtaken by developments in social care and collective bargaining that are being taken forward in England by the Westminster Government.

Therefore, no, the amendments are not strong enough. The other issue to be aware of is that even the limited rules, regulations and toolkits that we have for ethical procurement completely fail, because local government is so hollowed out and the ability to monitor contracts, enforce contract compliance and evaluate what is happening on the ground is just not there. We do not have the resources or the people to do that. There is already huge underdelivery against contracts in Scotland, and that is part of the failing market in social care.

**Keir Greenaway:** The bill does not go far enough on fair work. As Simon Macfarlane has said, progress has been made on sectoral bargaining, but, even within that, we are seeing private sector employers pushing back on the involvement of trade unions and the ability to talk to workers in the sector so that they have a voice in their own sectoral bargaining.

There is pushback everywhere. We have not made enough progress to deliver for workers in the workplace, and they do not see the difference from what has happened in the past five years. There is a lot more to do, and the bill does not go far enough on fair work.

**Colin Poolman:** I agree with my colleagues' submissions. Another important thing to remember is that, if we are going to improve the experience of the workforce, wherever it works, we need to ensure that, whether or not we are talking about a statutory provider, there are adequate resources to ensure that it can provide what is being asked. Sometimes, that is not allowed for when it comes to the contract, for example, and the issue really needs to be looked at.

**Katie MacGregor:** I agree. I just wonder how it links in with other pieces of legislation, such as the safe staffing legislation. There are all of these different strands, so the question is: how do you ensure that they are aligned and that we have the best outcome, the best conditions and the most effective working arrangements for those individuals? Ultimately, if they do not have the support that they need, there will be negative consequences.

As it stands, the amendments do not go far enough. The consequences of these things not being met remain unclear from the bill.

**Paul Sweeney (Glasgow) (Lab):** I thank the witnesses for their contributions so far. I am keen to understand more about the work that we can continue to do in the meantime. While we are considering the legislation, what can we do to expedite continuing progress on, for example, Anne's law and looking at how we can pull that forward?

**The Convener:** We will come to that later under another theme, Mr Sweeney.

**Paul Sweeney:** I apologise—I thought that that was where we were at.

**The Convener:** No, we are on theme 2.

**Paul Sweeney:** I apologise. I do not have any questions at this point.

**Carol Mochan (South Scotland) (Lab):** I just want to pick up the point about the social care workforce being seen as very professional, which is something that I think that we can all agree on. There are two questions to ask in that respect. There is a sense that we are very slow in getting justice for that workforce. Particularly with regard to sectoral and collective bargaining, should we be looking at whether we need to do things now, as well as trying to make robust advances with regard to what would be in the bill? Can we do things now on fair work and bargaining?

**Simon Macfarlane:** Absolutely. We do not need the bill to deliver sectoral bargaining—we should have got on with that by now. As has been said, progress on that has been far too slow. The Government needs to deliver on it. Even if the bill progresses, there is still a long way to go with it, as it appears that much will be done by secondary legislation; however, we need delivery on fair pay and collective bargaining now. At the moment, we are balloting our members in Enable Scotland, a large social care charity, on pay. That is pretty much a dispute by proxy, because we know that Enable is one of the better employers. Indeed, it has just written with us a joint letter on the whole issue to the Government, which has been signed by more than 500 of our members and their families.

We need investment in social care, and that can come only from the Scottish Government. As I have said, we also need to tackle the market. Unless we tackle profit extraction and offshoring, the fact is that, even if we poured in money—if there were money—much of that money would continue to leach out. Much can be done just now that does not require a bill—and certainly not this bill. The Government should get on with that, because otherwise we will remain in a state of crisis.

**Colin Poolman:** We absolutely agree. In our view, there is no barrier that means that sectoral collective bargaining cannot be progressed at the moment. In fact, it would enhance the progress of the bill, whether or not we agree completely with its content. All of us, especially those in the trade unions and professional organisations, would support the Government in moving forward with sectoral collective bargaining.

**Keir Greenaway:** We in the GMB take exactly the same position: there is no reason why we cannot expedite sectoral collective bargaining and introduce it in April 2025. You will find that there are no barriers to that on this side of the table. If the Scottish Government supported us in the push for that, that would help us to build the confidence of those working in the sector that the Scottish Government is on their side and willing to deliver for them.

**Carol Mochan:** You have mentioned the missing millions campaign. Is there any sense that the Government is picking up on the notion that we should seek to remove the private sector from the provision of service? Has there been any engagement on that at all?

**Simon Macfarlane:** No—quite the converse. The bill, as proposed, talks about maintaining the market. It has provisions on expanding third sector provision, but that is not about taking business out of the private sector; it is specifically about excluding the public sector and local government from providing services. We are clear that the only way of getting out of this crisis is by increasing the not-for-profit and public sector provision of care and social care in Scotland, but that does not seem to be part of the Government's agenda at all. It seems to be committed to maintaining a failed market that sees huge amounts of profit extraction.

I have a quick anecdote. One of my colleagues had to—

**The Convener:** We are really pressed for time, and we are just over halfway through this session. You can maybe add your comment in at another point.

Carol, do you have another question?

**Carol Mochan:** No—that is fine. Thank you.

**The Convener:** I apologise for cutting you off, Mr Macfarlane.

**Sandesh Gulhane:** Keir, your union has been engaging with the bill for two years now. In your opinion, what will the national care board do, and what is it for?

**Keir Greenaway:** We wanted it to have teeth with regard to enforcement and monitoring to make sure that the level of service for care users was enhanced and that the board could enforce proper fair work in the private care sector to bring up people's terms and conditions and pay. Under the current bill, the board does not have the teeth to do that. If it does not have the teeth to do that, what is it there for? That is why we have pointed to its being an added level of bureaucracy that is not required.

As it stands, we do not think that the sector delivers, but adding a level of bureaucracy to it will not make it any better. We want the proposed national care service to be a positive driver for change, but the way that the bill reads does not suggest that it will be.

10:00

**Sandesh Gulhane:** The national care board would add another layer of bureaucracy. We also have IJBs, which are going to be renamed, health and social care partnerships and a whole load of other acronyms. Do you think that a patient understands what all those agencies are and where to go if they have a problem?

**Keir Greenaway:** I imagine that most patients would not. We know that IJBs in their current form do not deliver and that they are incredibly opaque about how and where decisions are made. They have a mixture of people who are democratically elected as well as those who are not making decisions. The IJB model is not delivering for patients and care users, for our members who are delivering the care, or for the ancillary staff in the care sector.

**Sandesh Gulhane:** What would be different if we changed the name of an IJB to a health board, a health service board, or whatever we are going to change it to? Essentially, those bodies would have the same people on them.

**Keir Greenaway:** There needs to be fundamental change, which is probably what we all hoped a national care service would deliver. That is why we are all supportive of the proposal—we do not think that the care sector is delivering as well as it could for service users and it is definitely not delivering for people on the front line who are delivering care. Just rebadging stuff will not fix things.

**Sandesh Gulhane:** Simon Macfarlane mentioned the £38 million that has been ripped away from the national care workforce; indeed, Carol Mochan has already asked about that. Will the NCS address that and put the £38 million back into the workforce?

**Simon Macfarlane:** In our view, no—it does not guarantee to do that. That money is missing, and there is no sign of its return.

Outwith the NCS, we hope that we will move towards sectoral bargaining in 2025. Within that, the trade unions will be pursuing core terms, conditions and guarantees, with sick pay very high on the agenda. It will take money and resources, which the Scottish Government will need to put in if sectoral bargaining is to deliver anything. There is no sign of that money coming back any time soon.

**Emma Harper:** I have a couple of questions about the creation of a national chief social work adviser and a national social work agency. The Care Inspectorate seems to support the approach that is being taken by the Scottish Government, saying:

“We believe placing the role of the National Social Work Agency and National Chief Social Work Adviser on a statutory footing recognises the unique role of social work and will ensure it is given due parity and prominence within the National Care Service.”

I know that Social Work Scotland will be giving evidence as part of the next panel of witnesses, but I am interested in your views on those proposals. What role do you envisage those bodies playing in support of the profession and social work services?

**Katie MacGregor:** AHPFS is opposed to the creation of a national social work agency. Instead, we would like there to be an agency that includes all the professions that are involved in the delivery of social care services. Our concern about an agency that is exclusive to one profession is that it could become divisive and create silos, and it would not improve multidisciplinary working or integration. As we know, those things are very patchy across Scotland as it stands. Putting the national chief social work adviser on a statutory footing would not allow for there to be parity between the professions that are involved in social care. Although social care has the largest workforce—their work is important and they need investment and support—we must be mindful that it is not the only profession that is exclusively involved in the delivery of social care.

We want an agency that is inclusive of all those professions, so that the opportunities, funding, training, development and workforce modelling and planning, which we need in order to improve outcomes for social care in Scotland, are available to all the professions, including allied health professions, that deliver those services. A national body that allows for national standards to be created needs to be inclusive of all those professions.

**Emma Harper:** That brings me to my next question. If there was a national social work agency, local authorities, health boards and care boards would have to work together, so they wouldn't be working in silos. Could we do something different to what is proposed? What would the chief social worker do to eliminate silos?

**Katie MacGregor:** We already have a chief social worker and a chief allied health professions officer, and my understanding is that those working relationships could be improved.

As it stands, we have more than 100 quangos and Government agencies. Do we need another

agency to deliver the changes? The agency is being created in response to a crisis in social care, but I do not think that it will solve the issues that need to be solved. From what I have read in the bill, I do not quite understand the relationship between the national social work agency and the national care service board—for example, who holds the power, who holds the funding, who holds the autonomy and who is represented at which organisation.

Again, our concerns are about the lack of detail and the implications. From what we do know, we cannot support an agency that is set up for just one profession, when it is not just one profession that delivers the services.

**Simon Macfarlane:** Unison certainly supported the creation of the national social work agency but, similar to the issue of shared accountability, the proposal in the bill does not deliver what we thought was agreed, which was supposed to be a partnership between COSLA, Social Work Scotland and the Scottish Government. Instead, it appears that we have a vehicle for the chief social work officer.

There is still a lot of work to do on the proposal. We are not comfortable that it delivers what we wanted, which was an agency that focuses on developing the profession, investing in training, support and development, and looking at the whole social work workforce.

Instead, the proposal seems to be for an agency that is focused on the chief social work officer only, rather than on the partnership that we were promised. We have significant concerns about that, and we hope that they will be addressed as the bill progresses.

**Emma Harper:** This is a framework bill, and you are keen to ensure that further regulation and statutory instruments are good at defining the role of the social work agency and the responsibilities of the chief social worker, so that, as we develop the regulations down the line, everybody is clear on roles and responsibilities.

**Simon Macfarlane:** Yes. As has been said, the role of chief social worker has been around for a long time. As I understand it, their role is to advise the Scottish Government on social work issues.

However, it was hoped that the role of the agency would be much broader and that it would advance the standing of the profession, look at fundamental developments in the service and get social workers out of the crisis mode that means that they are managing resources rather than improving lives and outcomes for the people whom they support. Through dialogue with us, Social Work Scotland and COSLA, we hope that we can get back on to that agenda.

**Gillian Mackay (Central Scotland) (Green):** Good morning. The theme of my questions is everything else that we have not already spoken about, so I apologise if it turns into a random run around the bill.

So far, we have had a chat about the unions now having withdrawn their support for the bill. Some of them are looking for the bill to be withdrawn, although other organisations are still in the works to try to make it better.

There are obviously some good things in the bill in relation to those receiving care, such as Anne's law, the right to short breaks and advocacy provisions. Do the witnesses believe that we are at the stage at which we need to go back to the drawing board on some of the reorganisation and some of the provisions around fair work, but that we also need to make progress on the good things so that we do not lose any more of the good will that is left around the co-design that has already happened? I absolutely appreciate what people have said so far about the workforce's input into co-design and how the workforce is feeling. On the other side of that, there are people who receive care and their families who have put their time in and have seen something come from that. Do the witnesses support a position in which we progress the good things where we can and have a wider conversation around what whole-scale reform looks like in more detail?

**Katie MacGregor:** I agree to an extent. As we said in our submission, we want the good things in the bill, such as Anne's law, to be expedited now. We understand that the bill has been in the works for a while, and the end date is unknown to some extent. We do not want to lose those good things, but do we need the bill for them to be realised? It is worth considering whether there is a way to deliver them outwith legislation.

**Colin Poolman:** I agree with Katie MacGregor. It has been a long and weary road, and we all have our views. I feel for the carers who have inputted into the bill and who are looking for change as well. Everybody is looking for change, and we all agree with the principles. It is about considering whether it is possible for the Government to work through whether we can deliver on things more quickly. We talked about, for the staff, sectoral collective bargaining, but there are many aspects for those who receive services and their families that could be taken forward without the need for the bill.

**Simon Macfarlane:** We think that, where the Parliament can make progress, it should. There is a wider issue about democracy and accountability in how the bill has been handled. We are in an unprecedented situation today because of the Government's approach, and I do not think that it

is right for so much to be left to secondary legislation.

One of the justifications for putting some of this into the long grass—or for further discussions, as the Government portrays it—is so that agencies can focus on the winter period and on discharges, but the whole point of a national care service is prevention. The focus should be on prevention and avoiding the scenarios that lead to those issues.

On wider reform and discussions, there are proposals in the bill about moving to a one-size-fits-all approach across Scotland, which is a huge change from what we currently have, and it will have a particular impact in Highland. Given the democracy and practical issues, we think that the bill should be withdrawn. We should get back round the table and get buy-in for a bill that is fit for purpose and that will enjoy the wide trust and confidence of civic Scotland.

**Keir Greenaway:** If we can progress the positives for those who receive care—from our perspective, a positive is that we will get sectoral bargaining by April next year—that will instil confidence in our members and those who receive care that we can return to something that fulfils the vision that people have for a national care service that can deliver for them.

**Gillian Mackay:** We also have a patchy picture across the country in relation to which services, including children's services and justice social work services, the local authority delivers or does not deliver. There are concerns from stakeholders—I am sure that some of you share the concerns—about how it works in practice for those who do not currently have all the services being delivered by the local authority. Do you have views on how we square that circle, for a start, and on whether children's and justice services should be included in the bill?

10:15

**Katie MacGregor:** The issue with children and young people's services and justice services is that there is no detail in the bill on what that would look like or what the reality of their being included would be. Even among the 12 different professions in AHPFS, we have differing views on how children and young people's services would integrate into an NCS. Much more research and engagement need to be done in those areas.

There is talk of community healthcare being part of the NCS, but what does "community healthcare" mean? There is a huge emphasis on early intervention and prevention, in which AHPs and rehab play a massive role, but there is little detail on that. For all those areas of clinical practice and services, significantly more research and detail

need to be provided on what the implications would be for funding for the workforce and, ultimately, for the outcomes for the people who use the services.

**Simon Macfarlane:** As part of the process, the Government commissioned research in relation to criminal justice and children's services, and it was inconclusive on whether there would be any benefit to moving those services into scope. The concern is that the one-size-fits-all approach represents a removal of local accountability and decision making.

Fundamentally, more resources are required in those areas of service. The proposed reorganisation will not deliver any more resources, which are what is needed. As I have said, it will create particular problems for Highland. The staff there went through a very protracted process in relation to the Transfer of Undertakings (Protection of Employment) Regulations. Even now, that issue has not been fully resolved. Introducing another upheaval in a service that has been blighted in the past by bullying, on which we had the Sturrock review, is not the right thing to do, and it could pose significant jeopardy.

**Gillian Mackay:** This question is for Colin Poolman and Katie MacGregor, whose organisations are still working to make the bill better. What amendments would you like to see being made to the bill? Obviously, on the union side of things, people are absolutely on board with good stuff such as collective bargaining, but are there things on the workforce side that your workforces are looking for?

**Katie MacGregor:** From our point of view, the main issues are parity and representation. We want it to be put on a statutory footing that allied health professionals would be represented and would have voting rights on national and local boards, so that they could feed into strategies and charters.

Alongside that, we want more detail to be provided on not only the bill's financial implications but its practical outcomes. As we said in our initial response and our subsequent response, for us it is a case of looking at the outcomes from the bill. What will it mean for the people who use the services and the people who deliver the services? At the moment, it lacks any such detail. Rehabilitation is mentioned in the principles of the bill, but there is no definition of what that will mean for rehab services or who will be involved.

There is a huge opportunity here, and we are keen to work with the committee and the Government to drive it forward, but the process has been going on for so long that we need to start to look at what practical things we can do.

**Colin Poolman:** I could go on for a long time. We believe that there needs to be expert nursing representation on the national care board, and that we need to have much more clarity on how governance would work. National monitoring is a good thing, but there needs to be more clarity on how that would be enforced. That is really important. We also have a significant concern about who will take accountability for workforce planning, given that it will be split between three partners. Who will take the co-ordinating role and who will take the lead role in bringing about change?

We have talked about collective bargaining, but the other issue is to do with how we train, develop and support our workforces across the professions that would be covered by the national care service. That is really important.

We have a number of concerns, which we have raised consistently. At stage 1, we stated clearly that we had deep concerns about progressing with the bill, but the Government is progressing with it, so we will continue to engage in an effort to make it as good as we can through that process.

**Carol Mochan:** Despite the discussion about whether the bill should progress, we still have to scrutinise amendments, as they stand.

One question that I am interested in is whether you think that the bill would, with amendments, give us a robust way of monitoring improvements in social care and make sure that we can look at performance in social care and outcomes for clients. Would the amendments, as they stand, allow us to do that, if the legislation was in place?

**Colin Poolman:** Improved national oversight monitoring has the potential to be hugely beneficial. I think that everybody agrees with that. However, the difficulty is that, even with the amendments that we have, there will not be clarity about how shared accountability and governance would work.

As we all know, care is a complex sector. From our point of view, at the moment much more clarity would have to be put in place for it to work.

**Katie MacGregor:** I totally agree with that. There is also the question of how that works with existing models of evaluation of services. We do not want monitoring to become an extra burden on staff. Monitoring also needs to be done under the premise that it is for service improvement, and support and necessary funding need to be available in order that improvement can be driven forward.

**Simon Macfarlane:** Monitoring takes resources. However, as I put it in my evidence, resources have been "hollowed out". In local government, there is no ability to hold providers to account for

the services for which they are contracted. We can put in place all the regimes and all the toolkits we want, but if the resources are not there to ensure that they are delivered on, there is no accountability. That is why we think that there needs to be much greater direct public provision of social care. Ultimately, direct accountability comes at the ballot box.

**Keir Greenaway:** For us, it is clear that existing governance is not good enough. However, the bill is not robust enough on governance to drive the improvements that our members need.

**Carol Mochan:** With regard to our being able to robustly monitor and put forward improvements that would work for people and staff members, you are saying that we would need to make sure that more funding was available—that even if what we had to do was clear in writing, it would not be doable if we do not have the resources to implement it.

**Simon Macfarlane:** Absolutely. Funding is fundamental to the problems and crises that we face in social care. However, that is only one side of it.

There is also the huge amount of money that is extracted from the sector via private profit, much of which is offshored via opaque company structures—a company providing the care and renting a care home from a parent company, with the money then being offshored.

That all needs to be addressed, and it is only through direct public provision and an expanded role for the third sector that we can do that.

**Paul Sweeney:** I want to cover the proposed amendments from the Scottish Government, whereby the original principle referring to fair work is replaced and a reference to ethical commissioning removed from the bill. Do you have a view on whether those adjustments would strengthen or weaken the bill, and on the suggested link between fair work and ethical commissioning in the sector?

**Simon Macfarlane:** Ethical commissioning has failed to deliver for many years. Although we support the fair work agenda, we are, of course, five years on from the fair work commission report on social care, and it has not been delivered on the ground.

We need resources for social care, and we need greater public and not-for-profit provision. It is only through those measures that we will see improvements for the social care workforce. Other mechanisms are blunt and have consistently failed.

Lastly, we hope that we will make inroads on sectoral bargaining in 2025, but we do not need the bill to deliver that.

**Colin Poolman:** I have a slightly different view. Obviously, the Scottish ministers have removed ethical commissioning and we would like to understand why. Ethical commissioning is a good principle for us all to follow, so I cannot understand why the Government would remove it.

**The Convener:** Do you have any other questions, Mr Sweeney?

**Paul Sweeney:** That pretty much covers it. Do the witnesses have a view about amendments that you would prefer in light of the Scottish Government's changes? You might not have the detail in front of you, but if you have proposals on how such amendments might look or what you would like, that would be helpful for the committee to consider.

**Colin Poolman:** I could follow that up in writing. I have not come prepared with anything on that.

**The Convener:** Of course.

**Paul Sweeney:** That would be helpful. Thank you.

**Joe FitzPatrick:** I will be quick, as we are almost out of time. I have questions on the national care service charter. Are there any thoughts on the charter and the co-design process—which is one thing that has been flagged up as a positive? If we are going to have a charter, should it be a living document that can include learning from experience of its working in practice?

I am also keen to hear any comments that folk have about a complaints process and what that might look like.

Katie, do you want to go first?

**Katie MacGregor:** We support the principle of an NCS charter but, as the bill stands, we are not sure what weight or teeth the charter would have. The first iteration of the bill was very human rights focused, and the understanding was that the proposed human rights legislation would then transfer over to the charter. Obviously, the Scottish Government's proposed human rights bill is no longer looking the same. We need to understand what the impact would be of that.

It would make sense for the charter to be a living document. We should ensure that everyone who would like to contribute to the creation of the charter has the opportunity to do so in a way that is accessible to them, particularly in communities that will be most impacted by the NCS but do not have the opportunity to contribute to such things. We need to make sure that the charter is accessible, has teeth and can deliver something.

**Colin Poolman:** We absolutely agree with the principle of co-design. However, there are difficulties; our experience of the co-design



process has given us concerns. We have actually seen staff and carers being pitted against one another, which is very unhelpful, because everybody is, from whatever their perspective is, trying to get the best that they can possibly get. We need to think about how we do that better.

A charter is important. The Scottish Government has previously talked about creating a workforce charter as part of the co-design work, but we have not seen an update on that. It would be worth while to work on that collaboratively as part of the work on the national care service charter. That needs to be explored.

**Simon Macfarlane:** We are broadly supportive of the charter.

Everybody wants a robust complaints process, but that is challenging. There is a natural tendency for organisations to be defensive, as we have seen writ large with the Post Office. It is difficult when there are conflicting rights and responsibilities, but we are certainly supportive of the charter.

**Keir Greenaway:** We support the charter but, as Colin Poolman mentioned, there needs to be a workforce charter.

On complaints, for our members the Scottish Social Services Council registration process can be very difficult and extremely punitive; it can lock them out of work for a period. It would be interesting to know what process will be put in place that allows workers to bring up complaints against employers that are not meeting ethical commissioning requirements, their contractual targets or their fair work obligations. We see our members who are on very low pay having punitive suspensions through the SSSC, but we see no action being taken against employers who take the mickey, and there are no teeth in the bill for it to do that.

**The Convener:** I thank Joe FitzPatrick for taking us exactly up to time. I will briefly suspend the meeting to allow for a changeover of witnesses. I thank the panel members for their time.

10:30

*Meeting suspended.*

10:39

*On resuming—*

**The Convener:** We continue our scrutiny of the Scottish Government's proposed stage 2 amendments to the National Care Service (Scotland) Bill with a second panel of witnesses. I welcome Pauline Lunn, director of In Control Scotland, who is representing the national self-

directed support collaboration; Stephen Morgan, chief social work officer for Dumfries and Galloway, who is representing Social Work Scotland; and Frank Reilly, independent adviser on adults and the NCS, who is representing the Scottish Association of Social Work. We move straight to questions.

**Tess White:** My first question is for Frank Reilly. What impact would the proposed shared accountability arrangements have on the governance and delivery of social care and support?

**Frank Reilly (Scottish Association of Social Work):** From our members' perspective, any change will be positive, but the shared accountability arrangements as they stand do not really give us as an association, or our members, hope for the future. The shared accountability as it has been set out in the documents is interesting. However, the balance between local flexibility—being able to deliver local services that meet local needs—and ensuring consistency across the country is always a bit of a paradox, and our members have been clear that the bill and the shared accountability arrangements as they stand are not delivering an answer to that paradox.

The quick answer is that our members are waiting to see what happens. They hope for better times ahead, but they are not confident, given the current relationships between Government, local authorities and the NHS.

**Tess White:** Does Stephen Morgan have a view on that?

**Stephen Morgan (Social Work Scotland):** Yes. Social Work Scotland views the proposals as quite confusing, as they would add layers of bureaucracy as opposed to removing them. For example, how would the provision that ministers should hold sole responsibility for a strategy impact on other partners? Where would the shared accountability really sit, and where would the power lie? We have reservations about the impact of the arrangements and how they would operate.

**Tess White:** Some people think that the proposals will create a tug of war. I see that Stephen Morgan is nodding, as is Frank Reilly—I will go to you.

**Frank Reilly:** Our members definitely anticipate that happening. They expected the national care service to create some clarity—when the NCS was initially proposed, the direction of our membership was gently in favour. However, the tug of war raises anxieties, particularly for social workers who are on the front line. They are looking at all the discussions about structures and relationships, but the reality is that they need resources, and they need them now.

The message from the front line is that, unless we do something about investment in social work and our social care colleagues, the services and technical expertise that sit within social work will not exist, because it will be difficult to recruit, train and retain staff. The challenge is significant. Our members hoped that the NCS would resolve it but, at the moment, they are saying that it does not resolve anything.

**Tess White:** My next question is for Pauline Lunn. To what extent are the proposed amendments and the proposed redrafted bill compatible with the principles and functioning of self-directed support?

**Pauline Lunn (National Self-directed Support Collaboration):** The other members of the panel represent a particular type of person, but the national self-directed support collaboration is much broader, so I should quickly explain that we have representation from third sector providers, independent support advisers, agencies that provide advocacy, folk with lived experience and local authorities. There is quite a wide and diverse reach across, rather than a single focus.

There has been strong sentiment that the Social Care (Self-directed Support) (Scotland) Act 2013 has already laid out the values and principles for what good social care looks like. We have decades of knowledge and experience of the independent living movement, and disabled self-advocates and activists have worked really hard to ensure that those principles became a reality. For us and our members, it felt contrary and unnecessary to have a whole new set of values and principles for a national care service when we already have a really solid grounding for what good looks like.

10:45

**Tess White:** There is a view that self-directed support should be a separate workstream from the national care service. Would you support that?

**Pauline Lunn:** Yes and no. The difficulty with having it separate is that self-directed support is already seen as something that is separate from social care, when it is not—it is our national policy for social care for the majority of care and support services, excluding residential and justice services. Although self-directed support requires attention, there is a danger in separating it out, because that would continue to create the division with the belief that it is different or separate from social care.

Our members would very much recommend and urge that, for the next stage, self-directed support should be the bedrock on which social care is delivered, instead of being seen as a workstream in the way that other areas might be.

**Tess White:** That is helpful. Would Stephen Morgan like to come in?

**Stephen Morgan:** Yes, please. I fully agree with what has just been said.

When self-directed support was introduced, we were also dealing with the Public Bodies (Joint Working) (Scotland) Act 2014 and integration, and the two became conflicted. Between structural reform around integration joint boards and the delivery of self-directed support, the emphasis was put on the structural change. Leaders and practitioners were forced into new structures.

We are potentially creating something similar now. Pauline Lunn is absolutely right that self-directed support is the bedrock of what we do—it is in the social work assessment and the plan for an individual, because the social work assessment involves the individual. It is then in the delivery of services. If we make the reforms that are now being suggested, we will take our eye off a ball that needs an eye on it, in my view. We are actually going to stall the development that we need.

From my perspective, self-directed support should not be a separate workstream; it is the core of what we do. It goes back to the Social Work (Scotland) Act 1968 in terms of social work and social care practice. That is about putting people at the centre and giving them choice, agency and control. That should not change because of structures.

**Tess White:** That is helpful. Would Frank Reilly like to comment?

**Frank Reilly:** I agree with what my colleagues have said. The other bit that might be missing in all this is the challenges for front-line workers in all the sectors around eligibility criteria. At the moment, social worker roles are focused on picking up the broken bits of the system. Social workers want to be talking with people early in their journey, so that they can intervene where possible to provide early support and to support third sector organisations to do the same. There is currently an inadvertent, or deliberate, focus on delayed discharge, which tells us that there is an issue with the system. The system is broken if we are looking there, rather than at the other side.

There is a significant potential that we will end up stuck in that cycle and not break out of it. Our members were hoping that the bill would provide us with the tools and mechanisms to break the cycle, but we are hearing from them that it is reinforcing the cycle and is not directing resources and a focus on the early part of the journey.

That is missing from the bill, but it needs to happen for Scotland's future—it needs to happen for my future and the future of all of us around this

table. That is the biggest concern for our members.

**Tess White:** Are the amendments compatible with the principles of self-directed support, or does the Government need to go back to the drawing board on that, too?

**Frank Reilly:** SASW's view is that one or two elements of what is being proposed should be retained, but the bill is not needed to take them forward. They include the national social work agency; I would need to look at my notes for the others.

The bill as it stands is not going to deliver what social workers intended or expected. The mild support that it had from them has drifted away quickly. At our most recent engagement—it is difficult not to express it in this way—we were talking to angry social workers. They were watching the process and expecting outcomes that would benefit the people they support—not themselves—and they were struggling to see how any of the work that is being proposed for the bill would deliver what was intended.

**David Torrance:** Good morning to the witnesses. What difference would the amended national care service principles make to the planning and delivery of an integrated health and social care service?

**Frank Reilly:** Our view has always been that integrated care is an aspiration for us all, to make sure that all the bits connect together. There is a dominant voice in the room, which is that of the NHS. It has the biggest workforce and the biggest amount of resource. The 2014 act, which Stephen Morgan mentioned earlier, was intended to bring the voices together, but the NHS remains a dominant voice.

Our concern is that what is getting lost is the social voice and the importance of relationships in establishing better care at the earliest opportunity. We also need to begin to look at issues such as eligibility criteria, which prevent some people from accessing the care and support that they should have. I am sure that my colleagues will be able to expand on that.

**Pauline Lunn:** I absolutely agree with that. My organisation is national and our collaboration is national, so we have a wealth of experience and understanding of how things work in different authorities. I would say that integration is variable, and there is definitely a concern that the loud, dominant voices in the room have not had a positive benefit in social care and social work in the way that we might have hoped they would. I am sure that there are some positive areas, but those of us on the front line have not seen that quite as much.

Our big concern is that the proposed amendments would remove the lead agency model in Highland. We have many members in Highland, and we hope that there would be a detailed, separate and specific consultation on what that change would mean for them. In my day job, I do a huge amount of work with Highland, which is already facing more challenges than many other areas are because of rurality, population spread and geography. There is a danger of assuming that one size will fit all in a new national care service, without taking the time to listen to the folk in those communities.

**Stephen Morgan:** The position on integration is very mixed. The Highland model has just been mentioned. In Dumfries and Galloway, acute services are integrated in our local partnership, and there are areas where children's and justice services are also there. The problem in relation to planning and delivery is that there are so many models that it is difficult to compare and contrast. Sometimes we should do that, and sometimes we should not.

The bill and the principle of control at a central level from the Scottish Government give us no confidence that the lack of clarity and the uncertainty that staff and other people in Scotland experience will change. If anything, we fear that there will be increased levels of bureaucracy.

We welcome some national guidance and planning. For example, the commissioning of the secure estate for the most vulnerable children in Scotland could easily be planned and delivered by the Scottish Government, given the human, financial and political issues that are involved. However, we have no confidence that what is before us in the bill will deliver the change that is required.

**David Torrance:** To what extent is there currently a link between fair work and ethical commissioning? If you do not believe that there is a link, should there be one? If so, what should it look like?

**Frank Reilly:** There definitely should be a link, and it should be in the bill. We were quite surprised not to see it in the bill; a stronger word to use would be "disappointed", and that reflects what our members are telling us, too.

It is interesting to compare the systems that we have in the United Kingdom with those in Europe. When I had conversations with colleagues there recently, they were quite taken aback that there was a separation between social care and social work. They were also taken aback when I described the social work role being narrowed over time to legislated tasks and away from relationship-based work. Most of that work is now being done by our colleagues in the third sector.

That is a symptom of a broken system. Fair work has a mechanism to fix that system. There is a disparity among pay rates for support workers in the third sector, healthcare support workers in the NHS and social work assistants. Those are some of the key posts for delivering relational care across the piece, and there can be a £2,000 difference between their wage ranges. Fair work therefore plays a key role. I cannot emphasise enough that we were really disappointed not to see that in the proposed legislation.

**Stephen Morgan:** Fair work is absolutely critical for us. We need to improve the recruitment and retention of social care workers in particular in the system. Frank Reilly has already mentioned the disparities between pay. What is really striking is that the £840 million—the 25 per cent increase—that was promised for the social care system has gone, quite rightly, into meeting fair work arrangements, but it does not even touch the sides in relation to the investment and development that the sector—not just social care but social work and community health—requires.

I wanted to make a point about investment today, and this feels like the right time to make it. We need reform of the social care, social work and community health systems. Social Work Scotland is a strong supporter of that but, without investment to meet the needs of the people who are in difficulties now and to meet the preventative needs and invest for the future, we cannot change the system. Fair work is critical and ethical commissioning is really important, but without sustained investment in meeting people's needs now and in prevention for the future, we will not be able to achieve that.

**Pauline Lunn:** I absolutely agree with what has been said. To put a self-directed support slant on it, as I am bound to do, through self-directed support, the person is the commissioner under options 1 and 2. That is an example of how true ethical commissioning can happen—where individualised supports are developed around a person's outcomes and dreams and what they want to get out of life.

As far as I am aware, we are still awaiting a full definition of ethical commissioning through that workstream, so it is difficult for us to say that this is the way that we should go when we do not have that information. However, there is a lot that we can learn from the way in which services can be and regularly are commissioned, which is on a truly individualised basis with the person at the centre. That flies in the face of the traditional competitive procurement processes that we know can often be a race to the bottom and can be damaging to relationships between support providers and local authorities, which ultimately harms communities and disabled folk.

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

I have a question about social workers. A recent Government bill—which is now the Children (Care and Justice) (Scotland) Act 2024—requires something like 150 social workers to make it work. Do you have enough social workers to deliver the things that you would like them to deliver at the moment?

**Stephen Morgan:** No, is the short answer. Not only does that act suggest that we need 150 extra social workers, if you look at the “Setting the Bar for Social Work in Scotland” report and the “Taking the wheel” report—two fairly comprehensive pieces of research and follow-up—they show the significant shortages of social workers throughout the country.

In my area of Dumfries and Galloway we have explored that issue. The workloads of staff on the ground can approach ridiculous levels of care. We do not have the time to do the good-quality social work that we want to do. We do not have the time to get alongside people and to have really good equal conversations to understand the fullness of their life as opposed to the problem that is presented. Social workers are stretched beyond belief, so not only do we not have enough of them, those we do have are not doing the type of social work that they were trained to do, which their values and principles hold dear to. I do not want to speak for Frank Reilly, but that is something that his members will highlight. We do not have the time to do what we need to do.

That is a longer answer than just “no”. We need significant investment in social work education. We could argue that we need bursaries for social work students so that we can get people from all different demographics across Scotland to come into the profession to give it the richness that it deserves. There are so many things that could be done differently. The answer is that, no, we do not have enough social workers.

**Sandesh Gulhane:** I assume that the NCS bill and the money that is going into it will help to solve that problem.

**Stephen Morgan:** If some of the money could come to the front line now, that would partly solve that problem, but the amount of money that we are speaking about is insignificant compared with what we would need to fix the whole system.

**Frank Reilly:** I will interject, because there is another layer that is maybe often missed. The people with the expertise and knowledge who were in social work 10 to 15 years ago have left in droves. Those folks have decided to take early retirement for very good reasons, including overwork, managing difficult case loads and trying to support other colleagues. We have heard from

our members that there are some teams in which the most senior member of staff—the person with the most experience—has been there for two years. We could suddenly recruit lots of social workers now, but we have lost all that expertise in the interim, and that is dangerous.

11:00

The other thing to keep in mind—this has already been mentioned—is that the social work role should be about developing relationships to allow for earlier intervention. However, because of high case loads and a focus on the legislative requirements within local councils and elsewhere to ensure that those elements are met, there has been a rationalisation of the social work role. The focus is on the things that are easy to measure, such as how many assessments you have done, how many people have received an output or funding, and so on. We are not measuring the relationships that are absolutely central to social work. Also, we no longer have that level of expertise within teams to support newer social workers to recognise that the rational, technical side of the work is a tiny proportion of their work and that the rest of their work should be about relationships.

Our concern as an association and the concern of our members is that we are setting up a system that will create a particular type of social work that many of our members would not have recognised 25 or 30 years ago. It would help to have more social workers, but we need to address the loss of corporate knowledge, which is leaking out of the system just now. We need to be able to retain those pieces of expertise. The NHS did that 10 years ago—it brought people back in. We need to do something like that in our system.

**Sandesh Gulhane:** I have been told that the average working life of a social worker is around six years before they burn out and decide that they cannot do it any more, which speaks to the point that you were making about the level of corporate expertise.

When the national care service board is created and the IJBs are renamed, we will have a whole new layer of bureaucracy, which is what the previous panel was telling me. How will that impact on and help social workers?

**Frank Reilly:** Our members are concerned about that additional layer of bureaucracy. Their gentle approval of the NCS when it was first proposed was because, potentially, it would remove those layers of bureaucracy. Their concern is that, at a national level, the politics between national and local government will be played out within the national care service board. The change in name of the IJBs to local care

service boards is inconsequential. It changes nothing for front-line workers, and they had high hopes that it would do so.

Those are our members' concerns: that the politics will be played out at the national care service board level and the actual delivery will not change anything from their perspective. It will not address any of the recruitment and retention problems or the investment that is desperately needed right now.

**Sandesh Gulhane:** I will pick up on what you said. Are social workers—your members—in favour of the NCS, as the bill is written now?

**Frank Reilly:** It was really difficult to find anybody who was.

**Sandesh Gulhane:** Thank you.

**Emma Harper:** It has been quite interesting to hear the different opinions so far. I want to pick up on what Frank Reilly said about social workers leaving in droves.

Would having a national social work agency and creating a national social work lead help to address that in terms of looking at leadership, at education and at flattening the hierarchy on the ground to make sure that social workers know who the leadership is? In my experience as a registered nurse in NHS Dumfries and Galloway, some of the nurses did not know who the chief exec was or even who the chief nurse was. Would a national social work agency help to address some of those issues?

**Frank Reilly:** Having both the agency and the chief social work adviser role in legislation is the last best hope for social work—that is what our members have told us—but we do not need this bill for that to happen. That has been a clear message from our members.

Exactly as you have described it, the expectations are that the agency will be able to address recruitment and retention challenges, variation in training across the country and variation in things such as eligibility criteria across 30-plus IJBs. However, our members are concerned that, although the agency and the chief social work adviser role are in the legislation, their powers, duties and responsibilities are not. Our members are somewhat dubious about those details being added later on. They want to have confidence that the agency will be able to deliver and they want to see the details in the legislation—not later, but now.

**Stephen Morgan:** Social Work Scotland, including its members and the 32 chief social work officers in Scotland, strongly welcomes a national social work agency, but we are quite vocal in our view that it should not be an agent of the Government. We think that a true partnership is

what is required. We believe that the office of the chief social work adviser needs a firmer footing and that moving it forward in the way that is suggested is good, but to give a single agency all of the power and decision making is not what is required. We need proper partnership with COSLA, Social Work Scotland and other partners, so that we come to the table together to look at what is best for social workers and social work in Scotland.

We could look at some of the tricky issues. I said to myself that I would not mention pay and conditions today, but it is the first thing that is coming out of my mouth. We could look at issues such as pay and conditions, and social work education. Social Work Scotland and chief social work officers might have to cede some of their power to other partners. For example, COSLA might have to cede some local control, and the Scottish Government might have to cede some policy making, as part of a proper agency that works together and works together well.

That is what we would like to see and what we would like to continue to be involved in, and we think that that will make a difference to social workers on the ground.

The pay for a newly qualified worker, who is entering the profession today, might vary by £7,000, depending on which local authority they work for. You would imagine that Edinburgh would pay more money because it is probably the most expensive part of Scotland to live in, but social workers start on £36,000 there. In Aberdeenshire, they start on £41,500. That is one example, but that is just pay.

It is also about the support that we get and how we bring people back into the profession and a national social work agency, with all those partners around the table, would have an enormous voice in that. We can do things much better. We support a national social work agency, but not in the form that is currently written in the bill.

**Emma Harper:** Would a national social work agency address issues that the previous panel of witnesses raised about how we need to work not just with social workers but with allied health professionals, occupational therapists and physiotherapists? We had a conversation about reablement the last time that we spoke. How would a national social work agency help to develop better partnerships and relationships with our allied health professionals?

**Stephen Morgan:** I think that it would give a voice back to social workers. Since integration, we have disentangled what was a united profession. Adult social work sits in health and social care partnerships, as do some children's and justice

services, but where we have got into partnerships, the health element is so huge that it is overpowering and overwhelming for staff on the front line. Currently, we have staff who are running around attempting, quite rightly, to get people out of hospital, because hospital is not the best place for them to be, but that is to the detriment of their social work functions elsewhere, such as early intervention and working in the community. They get pulled to the big white box that is the hospital and they do not necessarily have a voice when it comes to decision making.

Social workers in Dumfries and Galloway, who work in the health and social care partnership, look to me as their leader, although I am not their boss—if that makes sense—but how much impact and influence do I have?

A national social work agency can give back to social work its profession and voice, so that we are confident in bringing our voice to the table, alongside our allied health professionals, to come up with an excellent combined reablement plan, as opposed to a reablement plan that is from one profession only.

I go back to the 1968 act, which gives social workers a role to undertake an assessment. It gives us the responsibility to capture everybody's information for that human being—from themselves, their family and other professionals who are involved—and for us to collectively come up with a plan. Subsequent legislation has strengthened that role, but the voice of social work has diminished at the same time.

**Emma Harper:** I am thinking about what you said about the variation in pay across Scotland, as well as the variation in education, skills, expected competencies and delivery of services on the ground. Do people know what social workers do? Would the national social work agency, as proposed in the bill, help to establish a standard approach to what social workers do across Scotland? My understanding is that the aim of the agency is to create equivalent terms and conditions, salaries, expectations, skills, competencies and education across Scotland.

**Stephen Morgan:** On the one hand, that is desirable, but we do not necessarily need there to be legislative change or reform; we already have the mechanisms to do that. The Scottish Government sets policy and budgets, and it can ring fence funds. We could write national standards for social work practice right now; indeed, we have them in some elements of social work. That is already in our collective gift.

Social Work Scotland's proposal is that we should work better together. We do not need expensive structural reform that adds layers of bureaucracy to what we already have: health and

social care partnerships that are governed by integration joint boards; children's services partnerships; community justice partners; national education boards—the list goes on and on. All that adds layers of bureaucracy that get in the way. We would like a national social work agency to create clarity in that space.

**Frank Reilly:** From our members' perspective, there is an existential crisis in social work: there is a concern that the profession may not exist in its current form at some point in the future. Our members are hanging on by their fingernails to the national social work agency as a mechanism to address the questions that you have raised.

One of our members' biggest concerns is about the external legitimacy of the proposed agency if it falls exclusively within the Government and does not have any form of external governance. Our members do not want the agency to exclusively deliver Government policy. They want to have a voice in the Government and they want to be able to influence policy and reduce the amount of legislation that comes our way for children and families in particular, as well as in other areas. They also want the social work agency to be able to connect with local authorities and what happens on the ground with front-line services, in exactly the way that my colleague Stephen Morgan has described.

I am not suggesting, by any means, that anyone within the national social work agency would not have those connections. However, once you are part of Government, it is very difficult to disconnect yourself from the Government's intentions. The legislation needs to make it very clear that the agency would be for social work, not for Government policy, which is what our members are asking for.

**Emma Harper:** Would that be the difference between an executive agency and a non-departmental public body?

**Frank Reilly:** I think that this is another layer on top of that. Either of those options could deliver an external governance mechanism, which was part of the early discussions about the executive agency.

**Ruth Maguire:** Good morning and thank you for your evidence so far. I will go back to Stephen Morgan's remark about social work getting its voice back. Sometimes when I am listening to discussions such as these, I think that the voices of service users can go adrift. It would be helpful for the committee to understand what it means for our citizens when there are structural barriers in the way, such as when departments are separate, because people's lives do not fall into boxes of children's services, justice services, or housing services, for example. Could you talk a bit more

about that? What would a social worker do for an individual when they have a voice and are able to link everything up?

**Pauline Lunn:** I am so glad that you mentioned that. I was just thinking that we have had a lot of conversation about social work, but there are a few people who are deeply invested in care who have been absent from the conversation. Thank you for shifting the conversation in that direction.

I work personally with a huge number of people who are either using social care or struggling to get access to it through self-directed support. I am also part of collaboration spaces where I hear very similar messages all the time. It does not matter whether you are in a rural community on the Ardnamurchan peninsula or in the east end of Glasgow—you will have comparable challenges with overcoming layers of bureaucracy.

11:15

Therefore, as I think our members would agree, we regularly have people come to us who do not know where to turn or what to do. Sometimes, there is a lack of clarity about the fact that social work is the gateway to getting social care support—people do not really know that. A huge piece of education is needed nationally in order for ordinary citizens to understand social care and social work, because there are still myths and misconceptions. Social workers have a bad rep with an awful lot of people, and care and support are stigmatised for many communities, so there are attitudinal barriers in the first instance.

However, there are also significant structural barriers, such as the fact that people deal with different social workers, because of the lack of named social workers now, and the care management approach, which involves funnelling people through the assessment, setting up a package and getting them out the door as fast as you can. That compares to the previous system, which I would liken to the family GP of old in that you knew where you were going and you knew the person who knew your family and your patch and was able to provide on-going support and advice. That approach does not exist in the current model of social work, because we have shifted away from a relationship-based focus to a care management model.

Supported folks face huge challenges in accessing, navigating and getting what they need out of social care, and that does not even get into the difficulties of finding a support service to meet their needs and the threshold of eligibility criteria, which means that folk have to be absolutely burst before they can get support. It would be fair to say that there are a small number of problems.

**Stephen Morgan:** I will add to that. As a social worker, I have always taken great pride in being able to speak to people, develop relationships and enable people to do the best they can for themselves. I sometimes wish that I was back doing that job, if I am honest. The job now, especially [in care management, can be functional and transactional. If a social worker feels that it is functional and transactional, imagine what that must feel like for a vulnerable person whose voice is sometimes weaker and often less heard.

Social workers are skilled communicators. We understand human growth and behaviour really well. We understand what impacts on people's development and how to attempt, with them, to put that right. However, as I said earlier, social workers in Scotland now often do not have the time to really get to understand and know someone—to build a relationship. People are pressured into getting straight into what is wrong with them, and that is absolutely the wrong thing for a social worker to do—it is the wrong starting point. People are coming to us and saying, "This is what's wrong with me," because they know that it is almost like having a five-minute appointment with the GP—you have got to get your issues out there quickly and move on.

That is not the way that our profession wants to operate, because we are strong advocates for some of the most vulnerable people in Scotland, we wish to continue to be strong advocates and we want to work in the way we were trained to work and to hold on to our core values—particularly social justice—but we are not seeing that we are delivering that for people.

I have also been a social work service user in the past. I was an unpaid carer, and I got support in that way. I had a powerful voice, because I know the system. I am one of the very few who know the system. You should not have to know a system or a structure to get the best-quality assessment and support from a social worker.

On the point about that being just the start of it, the social work assessment is the gateway to social care support. We also need the investment. I know that I am going off topic and mentioning the financial model again, but it is important. We do not have the supports across Scotland that are required and we do not have the investment. We might have the money, but we do not necessarily have the people. If you live in Kirkcudbright in Dumfries and Galloway, you might have different access to a personal assistant from someone who lives in the centre of Dundee. There might be companies in Dundee that you can use your option 2 of self-directed support for, but that provision does not exist across the piece. I am sorry for going off topic a wee bit.

**Ruth Maguire:** Frank Reilly, do you have any reflections on the point about structure getting in the way, with regard to whether different parts of the system are within or outwith the existing partnerships?

**Frank Reilly:** There are different influences. It is not necessarily a structural point, but we can think about why people come into the social work profession. One of the key things that people are taught about in the first year—I used to be a lecturer on the University of Strathclyde course—is the use of self, but there is no time for the use of self. What social workers expect when they come out of the courses is different from what they are presented with. It does not matter how many placements they have had, because real life is not the same as a placement. In essence, they are presented with a production line. That is not of managers' making; it is of the system's making, in order to get best value. Relationships are not valued at all.

The current structures make relationships with other services much more difficult to maintain or develop. Changing that is the way we could get over this hump or the problem with making better connection with the third sector. The concept of a GP-type service that Pauline Lunn described earlier is exactly what social workers aspire to when they come out of those courses, but they are not being presented with it.

The current structures are leading to some social workers experiencing what I describe as moral injury. That is one reason why they are leaving the profession at year 4 or 5, or earlier. We do not know where they are going. We know that the vast majority of them go into family services in the third sector, but we do not know where the rest of that highly experienced and highly qualified workforce are going. That is a bit of a problem for us as a nation, because that experience might be being wasted and it could be used more effectively elsewhere in raising the profile of social work services. That churn is really quick. Although we have social workers working in the third sector who understand how the statutory element works, they have in essence turned their back on that, because it is too difficult to work within as a result of that moral injury.

We have heard from members who are going above and beyond their hours and above and beyond their duty, as nurses and doctors do. Some of our members are putting their hands in their pocket when they should not be, and are not telling their managers about that, in order to meet their moral duty. They are taking people to appointments at weekends to see family without telling their managers, because that is their moral duty. There are two elements. One is a high demand for service that is exhausting social



workers, and the other is their moral duty, which is also exhausting them.

We should not have a system that has those two distinctions. The system should be unified, it should be delivering and it should value what social workers, social care workers, carers and people with lived experience who are also delivering care are providing for our country.

**Ruth Maguire:** Thank you—that is helpful.

**Gillian Mackay:** Good morning. With the previous witnesses, we had a discussion about the good things in the bill that could be separated from other things to allow us to take a longer time to look at the more structural reforms. Anne's law is one of those things, and there is a lot of focus on people who access services and carers, relating to advocacy, short breaks and so on. Are there other things in the "good stuff" category that the witnesses want to progress? Many people have said that they could be progressed without the bill.

Frank Reilly is nodding the most, so I will come to him first.

**Frank Reilly:** I think that that is just a habit, to be perfectly honest.

I mentioned that the national social work agency is the last best hope for social workers, but it has to be done properly and it has to have the right powers. It needs to be in legislation, but we do not need the bill to do that. Equally, our view is that the chief social work adviser should be cemented in legislation and the powers and responsibilities should be there but, again, we do not need the bill to do that. Those two things should definitely progress.

Equally, Anne's law does not need the bill to progress. A number of the elements of Anne's law exist in legislation elsewhere. Social workers sit right in the middle of negotiating the legal and moral requirements around the demands on them, on carers and on people in care homes. My colleague Alison Bavidge reminded me that the role of social worker in all that was one of the key roles that were pushed to one side during Covid.

Our view is that, if there were more members of the social work profession and the role was more cemented in legislation, some of the concerns that were raised during Covid and which would be addressed by Anne's law would not have arisen. We support Anne's law as a mechanism to cement the measures in legislation in one place. Social workers play a key role in the delivery of that.

**Gillian Mackay:** Pauline Lunn was nodding the most next, so I will go to her next if that is okay.

**Pauline Lunn:** I am the second-best nodder—excellent, thank you. Our members were very positive about the right to independent advice,

information and advocacy. In the past, the right to advocacy was more likely the issue, but the right to information and advice from independent sources is critical. Quite a number of our members in our collaboration come from independent support and advice organisations, and they are the boots on the ground making sure that people are empowered, know their rights and have the understanding and the confidence to be able to access support.

Our members would be keen to see that develop further by extending it to folk in residential care, because that group is often less heard, less involved in decision making and less able to exercise their ability to advocate for themselves. We were positive about that addition, but it could go even further.

**Gillian Mackay:** That is interesting, thanks.

**Stephen Morgan:** I will not repeat what was said about Anne's law, but it could be delivered outwith a national care service bill. A national social work agency would be another great thing, if done properly, but it could also be done outwith a national care service bill.

Looking at prevention and early intervention and driving the money nearer the front line to our citizens is good. That is a missed opportunity of this bill, because it does not give us the detail about how to drive the reform that we absolutely need. We agree that the reform of social work, social care and community health is absolutely and desperately needed right now. The bill states that as one of its aims to a degree, but it is not strong enough. The way it is currently framed does not give us any confidence that it can do that.

This bill gave us an opportunity to look at the fiscal, demographic and governance issues in relation to social work, social care and community health in Scotland, but it has completely missed the mark.

**Frank Reilly:** I will come in on Pauline Lunn's point about advocacy. We often forget that encountering power is a disempowering experience. That is not unique and it affects us all. Limiting advocacy to certain groups is bad policy—in particular, it is bad social policy—and it needs to be extended beyond those groups.

**Gillian Mackay:** That is useful, thank you. The inconsistent nature of integration across the country of children's and justice services, as well as the geographical spread, has also been raised.

Pauline Lunn mentioned the different model in Highland earlier. Given what is in the bill, the potential for children's and justice services to come in and the issue with the lead agency in Highland, how confident are you that the current provisions will deliver what they need to? What

else do we need in the bill? Do we need more detail? Do we need to go back and take longer?

Many organisations, including yours, I am sure, have involved themselves in co-design processes, and I am keen that we do not burn all that good will and good engagement. How do we get to a point where people have confidence that the bill will deliver the change that has been needed for the past decade and a half?

**Stephen Morgan:** I was trying to be the best nodder for this question. I do not have any confidence at all right now, to be honest, and I know that I speak on behalf of other chief social work officers. As you have said, there are many different methods of integration. Models are models, but what we choose to delegate, what we choose not to and where we can choose is very different across Scotland.

The Highland model itself is concerning in relation to terms and conditions for staff who we believe would have to come out of agenda for change and the NHS and be re-employed. Would they have similar favourable conditions? As the bill stands, what is in is in and what is out is out. Does that mean that, where children and justice services are in, they will remain in, and that those local authority areas can choose to take them out in future?

The extra confusion and extra bureaucracy is really damaging. The “In or out?” question is misleading and disingenuous in terms of what that means. We know that the Scottish Government wants things in, so will they be in or out? Let us know, and let us take that work forward. I have no confidence that what is currently in the bill will drive forward the change that we need.

11:30

On the issue of how we build confidence for the future, we need to invest in front-line services the money that the Scottish Government is currently intending to use for significant structural reform. We need to give local people—local managers, local authorities, local partnerships and other partners—the responsibility to deliver locally, while investing in the way that is required. If I remember correctly, the Feeley review made 47 recommendations, but only one of them was about a national care service. Feeley looked at the broken social care system that we have in Scotland. To put that right, there needs to be intelligent, strategic investment for the greater good, as well as investment in the individual services that people currently get. We must fund both those aspects; it is not a case of funding one or the other.

From a confidence perspective, collectively, we need to put our money where our mouth is in order

to drive the change that is required. As we have heard, the issue is not all about money, but significant fiscal resource is required. Given that we are all aware of the fiscal challenges, we need to temper our expectations of what we can achieve right now and look at what is realistic. That is not what I want to hear or what I want to say, but we must take a step back. As I said, as it stands, the bill does not give me or my colleagues any confidence that it will drive positive change.

**Pauline Lunn:** I want to make another comment on resourcing, from the supported person’s perspective. I was part of the expert legislative advisory group, and I know an awful lot of people who are living with disabilities or health conditions or who are unpaid carers who have been part of the co-design process. There is a bit of distrust out there at the moment, because the ELAG process felt quite rushed. It was really intense and quite time bound, and it was difficult for folk to engage meaningfully. Lots of people who were involved in the co-production sessions do not see themselves reflected in what has emerged.

When it comes to ways to build up trust again, a fundamental issue with the make-up of the decision-making process is that it feels contrary to the ambitions that a lot of us had for a truly co-designed national care service that values the voices of lived experience. At the moment, folk with lived experience are limited to one rep on decision-making boards. There is no other group that is limited to one rep. There is nothing about how people who get involved in that will be remunerated. If people are expected to give their time for free, that does not value their participation.

In addition, a significant cultural shift will be required. It is tough for people who are used to having power and being able to make decisions to have to work in a different way. Training and support are needed for everybody to make it a collaborative process. Something bold could be done to provide proportionate representation of lived experience that encompasses lots of different types of voices and experiences, that remunerates, trains and supports people fairly, and that seeks to challenge the culture of power that some folk are more accustomed to.

**Frank Reilly:** From our members’ perspective, the fracturing of social work across so many different areas is problematic. It is very unusual for someone to fit only within adult social work, only within children and families or only within justice; they normally extend across all three of those areas. Therefore, it makes sense to bring those areas together. Our members are not advocating for us to say that you should wait. Do not wait—do it now.

Pauline Lunn spoke about the co-design process. Good co-design and good co-production take time. We have not had that time, so it is not a terrible surprise that those who were involved feel disappointed with what has been produced. If one of the purposes of today's discussions is about rebuilding trust, that needs a longer timeframe. However, in building a bill, we cannot have a longer timeframe. We need something now, but we also need the co-design process to go on for a longer period.

My final point is about representation, which we are concerned about. As Pauline Lunn said, an individual can only represent themselves. There is nothing in the bill or the policy memorandum that suggests that support will be provided in relation to constituencies. With regard to lived experience, we might be talking about disabled people's organisations. Equally, there needs to be representation for social workers on local boards. A social worker on a local board will usually represent their employer. There needs to be separate representation for social work, and probably for the other professions, too. My colleague Stephen Morgan will probably agree that that is a really difficult tightrope to walk, and you cannot expect somebody to be wearing two hats when they are sitting on a board. We are keen to emphasise the constituency aspect today.

**Pauline Lunn:** I have one final wee comment. When he mentioned folk with lived experience, Frank Reilly has reminded me of the other voice that I spoke about earlier. The engine room of a huge amount of the national care service is the folk who deliver the support, so it is not just about the assessment, review and statutory side of things. Most people receive their support from a support provider, and our members felt quite strongly that their voices need to be part of decision making as well. There are great umbrella organisations that represent providers from different sectors. They have a lot to say, and if you do not have providers on side, transformation will be really tricky, so we need to get them in the room, too.

**Gillian Mackay:** We have had conversations with Alison Bavidge previously about how heavily legislated for social work is. Are we getting to the stage where we have reinvented the wheel for social work so many times that it is no longer a wheel? Do we need to look at how much legislation on governance there is and get it an awful lot tighter so that the job and the work can be done on the ground?

**Frank Reilly:** Absolutely. Our members are telling us that they are juggling every day, depending on what legislation they are working within. As you say, social work is one of the most heavily legislated for elements of the public sector,

and the system is really difficult to navigate for social workers. It is of no surprise, then, that it is also difficult to navigate for people who are looking for support.

**Stephen Morgan:** When you are working with older people on their support needs, you could be working with the Social Work (Scotland) Act 1968 and with legislation on community care, adults with incapacity, adult support and protection and mental health, all during one interaction. Trying to work your way through that spider's web can be really quite complex. My answer is yes.

**Pauline Lunn:** That does not even take into account local practice and policy on eligibility and how that all fits together. I do not envy them.

I will give a wee example from my own practice in In Control Scotland, rather than from the NSDS collaboration. I did a piece of work with a group of social workers in which we asked them to map out the system, drawing out how somebody comes into the system, what happens to them when they are in there and how they come out the other end. We ended up with a massive, really complex and unwieldy piece of paper on the floor. A social worker took a step back and said, "This is stupid." When I asked her whether she meant that the exercise was stupid, she replied, "No, my job is kind of stupid, isn't it? Basically, my job is to circumnavigate the system. There are processes there, but they don't work, so my job is to create these little back paths around the system to get the outcome that I want, which devalues the entire system."

I always think about that massive roll of paper on the floor and that social worker's reflection about her job being "kind of stupid". In fact, the role of social workers is incredibly important. Social work is not a stupid profession, but we have complicated the system and made it unwieldy and challenging to navigate for practitioners and disabled people alike.

**The Convener:** Emma Harper has a brief supplementary.

**Emma Harper:** I will be brief. I come directly to Stephen Morgan. You said that Feeley made 53 recommendations, 11 of which are directly about the national care service, which is 20 per cent. One of those was to have a minister with social care in their title. We have that now—Maree Todd is the Minister for Social Care, Mental Wellbeing and Sport.

Are you saying that we can just get on with doing stuff and that we cannot wait on a bill? We are working towards a bill right now. Should we continue to do what we can now, while we are waiting? The bill is a framework bill, and further legislation will come down the line.

**Stephen Morgan:** We have no choice but to continue doing what we are doing. We are here to meet the needs of the most vulnerable people in Scotland, and we have to do that.

In terms of what structures look like, we have local structures across Scotland. The Public Bodies (Joint Working) (Scotland) Act 2014 is still in existence. Many of us argue that we are still implementing it, and the reform could be around that legislation and providing clarity on what needs to be in and what needs to be out. Do we have a clear definition of community health services? The answer is no, and work is under way to look at that.

We have the mechanisms and the legislation in place to keep going. Given Scotland's fiscal position at this time, Social Work Scotland's position would be for us to take a break, pause and reflect. There is a lack of research and detail, but we have the legislation in place right now to deliver for Scotland's vulnerable people. Give us the money that has been set aside and get it to the front line, to the people who live in our communities, and let us change the system for them now. We have to get on with it.

**Paul Sweeney:** I thank the witnesses for their responses. I want to build on some of the points that have been made in relation to Anne's law, as well as to discuss the broader point around prevention, of which a key aspect is housing. Are there any aspects of the Housing (Scotland) Bill that could interface effectively with the National Care Service (Scotland) Bill? Would you like there to be better consideration of adaptations to housing, for example, to allow people to live in their homes for longer without having to be admitted to acute hospitals or care homes?

One aspect that I have encountered is the financial consideration of someone having to sell their home to fund residential care, which is effectively a one-way decision—there is no going back once the decision is made. Has that ended in disastrous results for some of your clients?

**Stephen Morgan:** The point about housing is critical. As social workers, we go back to Maslow's hierarchy of needs: food, shelter and warmth. You are absolutely right. People selling their house is one thing, but, particularly in Scotland, people value their family homes, whether they have rented it for ever or have bought it. It is quite a decision for some people to move on but, when they do want to move on, there is not enough housing in Scotland for them to downsize. I am 52, I have a dodgy knee and I live in a semi-detached Victorian property. I want to move to a bungalow, to plan for the future and have that new home for life, but such homes just do not exist.

As for aids and adaptations, many properties in Scotland cannot be properly adapted. I think that about 20 per cent of our properties are Victorian or older, and many of them cannot be properly adapted. We must invest in more social housing, in homes for lives, with universal design—there is different language that we can use.

We must also think about amenity. We are a stock-transfer local authority in Dumfries and Galloway, so we rely on our registered social landlords and have excellent relationships with them. However, when new housing schemes are being designed, it should not just be a matter of looking for a cheap plot of land where X number of units can be put to meet the demand. Amenity should also be considered: where is the shop, the church and the doctor's surgery? We do not think about amenity enough.

You are absolutely right that housing is critical for meeting people's needs in the longer term. Without saying it, we have predominantly been speaking about older people and adults. However, care-experienced youngsters are entering the homeless system in Scotland now. We put them in bed and breakfasts, which is inappropriate accommodation. Those people are in cycles of trauma and abuse, they come into systems where they relive that trauma and some of their abuse, and we do not have houses for them. You are absolutely right that we need that housing.

We can think about the amenity for older people in different ways. What might a care village look like? "Care village" is a wonderful term, but we must get the amenity right, so that a village does not become a "ghetto of care", which is another phrase that people use. I am passionate about getting that right as we plan and deliver proper housing and accommodation for the future.

**Frank Reilly:** The system contains some perverse incentives, which legislation will not necessarily address. It is a question of how people get access to services. At the moment, they have to be in need—in the worst possible condition. The earlier intervention that can keep people in their own homes has been switched off. Those relationships are necessary. My mother-in-law now has a connection with the social work department, but that has come later on in her health journey. If the same conversation had happened two to three years before now—it was not for want of trying on my part—she would have had aids and adaptations in her house now, which would have given her another 10 years in her home. That timeframe has been reduced.

It is really important to address those perverse incentives, and the National Care Service (Scotland) Bill does not do that. That is problematic, as it means setting up a system where the most deserving receive what they

require, but they have reached a point at which they are not leading the most healthy, most effective lives that they could live. We need to intervene earlier. That is the role of social work.

11:45

Our colleagues in the third sector also want to be involved. Having worked in the homelessness sector previously, I know that the challenges in that area are beyond Anne's law and beyond the necessity of creating non-judgmental spaces for folk to be able to live and grow in. The issue also does not affect only one particular sector; it has an impact across society. That focus is problematic. In some respects, it is like we are going back to the poor laws, and that worries me considerably.

**Carol Mochan:** I have listened closely to what the witnesses have said that we can and should do now. However, part of the committee's responsibility is to scrutinise the bill as it progresses. I am interested in monitoring. The papers mention performance, but having listened to the witnesses, I think that we are talking about whether the bill and the amendments address the outcomes that we wish to achieve for the people that we seek to represent and support. Pauline Lunn, in particular, expressed strong feelings on that. Will you talk to us a wee bit about the bill and the amendments as they stand? Can we monitor the processes and get the outcomes that we are looking for? Can we get that right? Can we hold people to account for that?

**Pauline Lunn:** Our members agree that a fundamental principle of a rebuilt, transformational change-based national care service should be that it sets a level of national quality and that we understand whether that is being met. Data is meaningless if we do not interrogate it and learn from it. There is something far more powerful about a learning model that looks at what the data means and how we can learn from it. That could be done using human learning systems or improvement science. We support not just monitoring and gathering data for the sake of it. A wise man once said to me that services do not achieve outcomes for people—people achieve outcomes for themselves. There is no such thing as a service achieving an outcome; that is a fallacy. Learning from the way that people achieve outcomes is how we can improve.

**Stephen Morgan:** I am going to refer to Ben, who is sitting behind me in the public gallery. We are looking at the support and improvement framework, and Ben used the phrase, "This is going to have to do the heavy lifting for the NCS." The framework says an awful lot about scrutiny and quantitative performance measures, but those are not outcomes, as Pauline Lunn said. It mentions a top-down approach in which we look at

whether an agency or a partnership is performing well enough and what we need to do to intervene, but where is the language about improvement and being on the journey together?

We are considering a model in which responsibility is taken from one IJB, council or NCS local board so that another authority can get them to where they need to be. However, to be honest, I cannot think of any local authority or IJB in Scotland that would want to take responsibility for another area at a time when we are all struggling to deliver what we need to deliver right now. Also, legal responsibility would still sit with the original agency, which is quite confusing.

There are not anywhere near enough mentions of outcomes for people, whether individuals or groups. I struggle more with outcomes for groups of people, but there are ways to do address that. There must be much more focus on what we actually mean by an outcome. I do not see anything in the bill or in the associated documents as they are now that gives me confidence that we are considering improvement from a learning perspective.

**Frank Reilly:** I cannot disagree with any of what has been said. A phrase that is used in quantitative research is, "What can be counted counts," but that is problematic for social work, because although social work focuses on relationships, it has been forced into delivering quantitative elements that can be measured properly. The framework needs to take account of that, as my colleagues mentioned. Social work is focused on the quality of relationships, and there are no metrics that I have seen thus far that monitor that. That should be added to the bill or explored in detail.

Pauline Lunn mentioned national standards earlier. We do not need the legislation in order to set national standards. We can do so now.

We share the concerns that Stephen Morgan mentioned about the transfer of powers from one local authority to another. We are struggling to see how that can safely be done under the existing legislation.

Lastly, there is already quite a lot of burdensome bureaucracy on social workers—that point came up in relation to the previous question. It is difficult to see what the additional layer would add that would be beneficial, without first rationalising the layers that already exist. It has to demonstrate value, in relation to not just quantitative elements but the quality of what is being produced.

**Carol Mochan:** Am I right in picking up—

**The Convener:** You must be brief as we must move to another theme; we only have five minutes left.

**Carol Mochan:** Am I picking up rightly that monitoring seems to be based on process, but that what is really important in is quality both for the individual for whom we provide the service and for their family?

**Pauline Lunn:** Starting to measure that would be transformative for social care.

**The Convener:** Thank you for your brevity.

**Joe FitzPatrick:** My questions are on the national care service charter, to give you an opportunity to say something about that. What are your thoughts on the co-design process and whether the charter will be effective? I am keen to hear, too, whether you think that it might be good for the charter to ultimately be a living document that could develop as we get experience of the national care service. Finally, do you have any thoughts on what a complaints process for the proposed NCS might look like?

**Stephen Morgan:** Social Work Scotland's view is that Scottish ministers need to get on with a charter, which is a guide to our rights. Just do it now—it does not need a national care service bill. We need to be really clear about that. We do not think that the charter itself makes sufficient distinction between legal rights that the individual possesses, and legal duties to which individuals and organisations are subject. That needs to be clarified. The short message is, "Get on with it."

**Pauline Lunn:** I know that we are short on time, so I just add that I agree. I have a couple of technical points: reference is made to access to independent advocacy, rather than advocacy, information and advice. From our perspective, the process is not particularly accessible. We had a problem with accessibility throughout the consultation process, with information that was incredibly complicated and difficult to navigate. That limits the ability to meaningfully engage with a wide group of people.

**Joe FitzPatrick:** Can you just expand a bit on the differences between independent advocacy and independent advice? I think that it is a really important point.

**Pauline Lunn:** There are a number of independent support organisations. I will use self-directed support as the example, because that is where I live. A programme called support in the right direction, which is funded by the Scottish Government through the self-directed support transformational fund, allows there to be an independent support organisation in every local authority. Those organisations are able to tailor support and advice about the whole journey of

self-directed support to help people navigate the system, get involved and get what they need out of their support.

Advocacy is quite specific, in that it deals with times of challenge or when there is a risk of somebody not having their voice heard. To have either is not the full picture—you need both.

**Joe FitzPatrick:** That is really helpful, thank you.

**Frank Reilly:** I will be brief. There are no new rights or duties in the charter. We struggle to see what the benefit of it is.

You asked about complaints. It is described as quite a simple process, but social work complaints are not simple. I will give you the example of a complaint about a funding package for services that a social worker or the social work department has determined is conditional on the availability of resources and on the needs of others who might have been assessed to have priority. Such complaints are very complex. However, that is not how the process is being presented.

**The Convener:** I thank the witnesses for their evidence this morning. It has been very helpful to the committee in its scrutiny of stage 2 of the bill. The witnesses are free to leave, but the committee will continue with its work.

## Subordinate Legislation

### National Health Service (Free Prescriptions and Charges for Drugs and Appliances) (Scotland) Amendment Regulations 2024 (SSI 2024/233)

11:54

**The Convener:** The next item on our agenda is consideration of a negative instrument. The purpose of the instrument is to amend the National Health Service (Free Prescriptions and Charges for Drugs and Appliances) (Scotland) Regulations 2011 in respect of prescription charges that are applied to English prescription forms if they are presented for dispensing in Scotland. That is in alignment with the increased charges in England.

The Delegated Powers and Law Reform Committee considered the instrument at its meeting on 17 September 2024 and made no recommendations in relation to it, and no motion to annul has been lodged.

Members do not have any comments, so I propose that the committee does not make any recommendations in relation to the instrument. Are we agreed?

**Members** *indicated agreement.*

**The Convener:** At our next meeting next week, we will continue taking oral evidence on the Scottish Government's proposed stage 2 amendments to the National Care Service (Scotland) Bill, with three further panels of witnesses.

11:55

*Meeting continued in private until 12:47.*





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