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The Scottish Parliament

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19 January 2023

I wanted to write to clarify some points following my evidence to the Committee in relation to the National Care Service (Scotland) Bill. This was in the context of the discussion about procedure for secondary legislation and how that can fit with the co-design approach.

As Mark Richards mentioned, the majority of the delegated powers in the Bill are subject to affirmative procedure. This gives committees more opportunity to scrutinise the regulations before making a recommendation to the Parliament as to whether to approve or reject them. While the formal procedure does not allow for the Parliament to make amendments to secondary legislation, there are opportunities for members to set out their views if they are not content with what the Government has brought forward.

I would also be happy to consider how Members of the Parliament and relevant Committees can be more engaged with the process of developing the regulations through the co-design approach. I set out for the Committee the stages of co-design: these are:

1. Understanding – building our shared understanding of the current challenges
2. Sensemaking – what and how can we deliver improvement
3. Agreement – do the proposed changes address the issues raised by people

Where regulations are required, once the policy and delivery position has been agreed within the co-design process the following phases will follow:

4. Drafting of regulations – co-design conclusions will be developed into regulations
5. Review - it will be important to share the draft regulations back with people for review of the alignment with co-design process.

The essence of co-design is working with people in an equal and reciprocal partnership. It is an iterative process which offers the flexibility to address, and minimise conflict from differences in views fully as part of the three phases. Where differences and conflicts arise in the first instance people will be encouraged to talk through these with a focus on outcomes for people, using the National Care Service Principles set out within the Bill.

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Where differences are unable to be resolved as part of the co-design phases expert advice, and a proposed solution where appropriate, will be sought from professional advisers aligned with the programme from social care, social work and health and shared back with people for agreement.

If under affirmative procedures the Parliament rejected regulations brought forward through this process then phases 4 and 5 above would need to be repeated to review any changes.

I will consider at what stages it may be helpful to share the progress of co-design with the relevant committees to support their understanding and scrutiny of the final regulations.

Further information on the strategy for using codesign to support the development of the National Care Service (NCS) can be accessed via the following link: [Supporting documents - National Care Service and co-design - gov.scot \(www.gov.scot\)](https://www.gov.scot/resources/consultation-papers/codesigning-the-national-care-service-2022-01-20-10-11-2022.pdf)

Kevin Stewart

Minister for Mental Wellbeing and Social Care

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