

Thank you for the opportunity to respond further to the HSCS Stage 1 scrutiny of the National Care Service (Scotland) Bill. Please see below further evidence from Karen Sheridan, Chief Operating Officer of Community Integrated Care.

Can you describe what urgent challenges social care users and unpaid carers currently face?

- The biggest issue for users currently is the lack of social care staff due to poor pay which results in recruitment and retention challenges for providers. This is compounded by the prevailing view that social is not an attractive career due to its being seen as low-skilled.
- There has also been a merging of frontline support and mid-tier roles due to only frontline positions receiving pay uplifts which has meant that differentials between tiers have not been maintained. This has resulted in many service providers removing the mid-tier roles and with it, a steppingstone for frontline staff to progress towards management roles. These flatter structures have meant that succession planning has been difficult as frontline staff have not gained the experience needed to take on leadership roles.
- When care providers with staff shortages have exhausted all other available avenues without success in their bid to provide support for somebody, the onus inevitably falls onto unpaid carers and family members to make up the shortfall in care. The impact of this is obvious, for example, they are inevitably restricted economically and the impact on their own health and wellbeing.
- Lack of skilled social care provision also has negative outcomes for users who have a basic right to a meaningful and fulfilling life but also benefit from better health outcomes where support is consistent and reliable, reducing the pressure on health services. Overall, service providers that are consistently stretched through short staffing are unable to deliver the optimum health and wellbeing outcomes for the people they support.
- The sector cannot wait for a NCS to address Fair Work. This issue is immediate and requires urgent attention or we risk system failure.
- The lack of opportunity for those with “lived experience” either through accessing care or providing care to have their voice heard in a meaningful way that influences the shape and design of services.
- Commissioning behaviours and varying standards across local authorities encourage traditional ways of working that stifle collaboration and innovation.
- Eligibility criteria and bureaucratic assessment processes often mean individuals need to be in crisis before meaningful engagement and support – often not transpiring and placing additional burdens on families and unpaid carers.
- Commissioning lacks human rights-based approach that focusses on individual need and outcomes. This is further compounded by lack of independent support and advocacy for those needing to access supports.

To what extent do you expect implementation of the Bill to help address these challenges or do you have any concerns about the impact the Bill could have in this regard?

- While we are in principle in agreement with the NCS we have concerns that it does not match the tone and ambition of the Feeley Report. It is clear the current social care system has serious challenges and needs an ambitious response to sector response. The Bill in its current format
- The implementation of the Bill in its current format gives rise to several concerns:
 - The human rights-based approach advocated for is not an integral part of the legislation.

- It proposes a large structural change that lacks co-design. It is acknowledged that this is included in the next stage however to have been truly meaningful this should have been included at the very beginning.
- There is a lack of detail in the bill about key issues and it appears to be a structural and financial framework as opposed to a people-centred, co-produced solution to social care sector challenges. This creates a risk that we will be exchanging one imperfect system for a differently structured imperfect system which will negatively impact users and providers in the interim for no real benefit.
- The ministerial accountability is opaque and needs to be clearer and more transparent.
- The Care Boards could be better supported with the establishment of a National Care Board.
- Currently the labour market is challenging with relatively high employment. There was nothing in the Bill that demonstrated awareness of the current crisis in recruitment and retention and without this foundational issue being addressed we feel the Bill will not solve the challenges. However, if the bill enshrines fair pay and effects a stabilisation of the workforce across social care service provision and not just that of local authority staff there is an increased likelihood that users would see more reliable and consistent care and therefore the overall quality of care would increase.
- Key legislation such as Self-Directed Support is not clearly defined with the current Bill yet it would have significant impact in the shift to a more human rights based approach.

How would the implementation of the Bill impact upon the voluntary sector? Are there any particular changes to the Bill you would wish to see to minimise any potential negative impacts or to maximise potential benefits to the voluntary sector from the creation of a national care service?

- We would welcome more detail on this as the Bill did not clearly define what the voluntary sector's role would be. However, the bill did highlight that the terms and conditions of local authority staff would be maintained – which if they were transferring in to the NCS alongside support workers currently in the third sector, the difference in pay would be significant and a real cause for concern and potential legal issues down the line. It is neither morally or practically defensible to have two people doing the same job for very different salaries.
- This speaks to a necessity for the NCS to have a guiding principle to treat staff fairly and equally for the role and the skills that they bring to it.
- Ethical commissioning / procurement isn't clear within the Bill therefore we are unable to offer an informed view on this point. Self-directed support should be seen as a core set of principles that will provide leverage to a new NCS if built in as part of the co-design.
- Much of the detail of the bill resides at some point in the future as secondary legislation. Having sight of this would enable a more informed response.
- The Bill should have a longer lead in time to enable the embedding of the human rights approach, to ensure that people with lived experience are shaping and informing what the NCS will look like.
- The transition planning will also be critical the success of the NCS. The more thorough and detailed this aspect of implementation, the fewer issues that will become a stumbling block further down the line.
- The scope of some changes should be considered on how smaller local based organisations will manage and implement change. Consideration to how the data requirements will be carried out should be considered alongside current investment programmes already enacted by organisation to learn from what is already available and can be built upon. Systematic

structural changes could have significant impact on the ability of third sectors to respond, especially with the current fiscal challenges that are a result of an already stretched and unresponsive system.

- As a sector we need to be creative and flexible to meet need – we would encourage the Scottish Government to exploit the knowledge and will of the sector in all co-design opportunities to capture the rich and creative ways of working within our local communities.

Anne's Law

Should responsibility for care home visiting rights lie with Scottish Ministers? If not, where should responsibility lie?

- What benefit would this confer that isn't already achievable at an operational level? Ministers should influence the strategic approach, but the day-to-day risks and challenges are best understood by the operators themselves making them best qualified to make this decision.
- There should however be comprehensive guidance to advise care homes to ensure a fair and consistent approach across the piece which is flexible and adaptable to a range of situations and environments. Preferably, a partnership approach between the provider and whoever the health regulator will be under the NCS would be the ideal standard.
- We would also advocate that the same principles are extended to other care settings such as supported living who seen the same challenges through the pandemic. Every individual within the social care system should have the right to visits and meaningful time with loved ones.

What factors should be considered when balancing the right of care home residents to visits from loved ones with public health and safeguarding concerns?

- There should be a guidance framework that explores these risks from every perspective to avoid this becoming a subjective decision by care home managers. There needs to be support to ensure transparent, intelligent and consistent decisions in this respect.
- The rights, wishes and need of the individual and their families should always be at the forefront of all decisions.
- This should include how the environment and staffing levels can make a difference. For example, a blanket ban on visitors to care homes is not justifiable where people live independently in their own dwelling as part of a community as opposed to shared accommodation.
- Other situations that should be accommodated would be individual circumstances which could include anything on a spectrum from protecting a vulnerable person from a visit that might cause harm even though it would be within prevailing regulations - to promoting a visit during end-of-life care when it may not be within regulations but would certainly be morally justified.

The right to breaks

Does the Bill as introduced guarantee the right to breaks for unpaid carers who need them? What measures should be considered to give unpaid carers the right of redress if they do not receive breaks or a carer's assessment?

- This is better answered by unpaid carer representatives.

To what extent is it reasonable to expect carers and those in receipt of care will have time and capacity to be involved in the co-design of the policy to improve respite care?

- As an organisation we are fully committed to co-production with both carers and people supported and believe that this is the ONLY way to ensure a fit-for-purpose service. Of course, carers are time-constrained but it is genuinely unreasonable to believe the service can be designed without them. In effect, the success of the service depends on the level of involvement from carers and people supported so finding ways to maximise this will be time well spent.
- There may be a need for capacity building in some instances but any initiative which promotes, supports, and enables co-production will be instrumental in the success of the NCS and there are a number of existing organisations that enable carers and people supported from every walk of life to have a voice. These organisations should be a first point of call to ensure the widest involvement and confidence that the end product is as inclusive as possible.
- Consideration of local events and those by other media formats such as Teams and Zoom. The process needs to fit into the lives of carers and those in receipt of care and so working with advocacy organisations and providers will be key to helping facilitate this.

Data and information sharing

To what extent are you confident that the Bill as introduced will lead to the creation of a nationally consistent, integrated and accessible electronic social care and health record?

- We are supportive an integrated care record due to current difficulties in data sharing, access to key history that enables individuals to be supported well and ongoing support with health and other professionals.
- There is a significant amount of work currently being done in the sector in this area and a shared system with the NHS would be extremely useful. As the third sector our access to information is always problematic and we would welcome more streamlined services to enable the delivery of the right support immediately as opposed to following a period of observation.
- The Bill as it stands does not detail how this would happen, so it is hard to say with any confidence that a nationally consistent, integrated, and accessible electronic social care and health record would be the result of the Bill.
- Secondary legislation for information sharing and consistent standards has yet to be drafted but it will need to carefully consider consent and access. More information is required in this regard.
- Consideration to the existing digital infrastructures, systems and processes need to be considered in partnership with this endeavour.

Planning and co-design

Are there aspects of the development of a national care service you would prefer to see detailed on the face of the Bill rather than left to the co-design process? Or vice versa (i.e. provisions on the

face of the Bill that would be better developed through co-design)? What role can third sector organisations play in the planning and co-design of the National Care Service?

- We strongly believe co-design should have been part of Stage 1 and must continue throughout all future stages. Similarly, we believe all aspects of the Bill should be co-designed with the most appropriate group of stakeholders for each specific topic.
- We have already said that the aim of the NCS must be significant improvements for the people we support and the people delivering that support. Therefore, the NCS must start with a thorough understanding of what is currently effective and worth keeping and what needs to be changed in order to deliver an overall improvement.
- The third sector is an important conduit to that understanding. Our frontline workers' experiences of operating in the current system is invaluable in appreciating how legislation created with the best intentions can have unintended consequences when it comes to implementation on the front line. Similarly, our commitment to ensuring the people we support can live fulfilling, happy and meaningful lives will ensure that this fundamental principle is used to sense check legislation.
- The sector can also help facilitate co-design with those who use services and their families and carers.

How can unpaid carers be meaningfully involved in the co-design of the National Care Service? What barriers might be faced by carers who wish to become involved in this process, and how can they be overcome?

This is better answered by advocacy and other organisations supporting carers.