



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Local Government, Housing and Planning Committee

**Tuesday 15 November 2022**

**Session 6**



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**Tuesday 15 November 2022**

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**LOCAL GOVERNMENT, HOUSING AND PLANNING COMMITTEE**  
**28<sup>th</sup> Meeting 2022, Session 6**

**CONVENER**

\*Ariane Burgess (Highlands and Islands) (Green)

**DEPUTY CONVENER**

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

**COMMITTEE MEMBERS**

\*Miles Briggs (Lothian) (Con)

\*Mark Griffin (Central Scotland) (Lab)

\*Paul McLennan (East Lothian) (SNP)

\*Marie McNair (Clydebank and Milngavie) (SNP)

\*Annie Wells (Glasgow) (Con)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Simon Cameron (Convention of Scottish Local Authorities)

Gerry Cornes (Society of Local Authority Chief Executives and Senior Managers)

Tracey Dalling (Unison)

Jane Fowler (Society of Personnel and Development Scotland)

Kevin Stewart (Minister for Mental Wellbeing and Social Care)

**CLERK TO THE COMMITTEE**

Euan Donald

**LOCATION**

The David Livingstone Room (CR6)



## Scottish Parliament

### Local Government, Housing and Planning Committee

*Tuesday 15 November 2022*

*[The Convener opened the meeting at 09:31]*

### Decision on Taking Business in Private

**The Convener (Ariane Burgess):** Good morning, and welcome to the 28th meeting in 2022 of the Local Government, Housing and Planning Committee. I ask all members and witnesses to ensure that their mobile phones are on silent and that all other notifications are turned off.

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

**Members indicated agreement.**

## National Care Service (Scotland) Bill: Stage 1

09:32

**The Convener:** Under agenda item 2, we will take evidence, as a secondary committee, on the National Care Service (Scotland) Bill at stage 1. We will hear from two panels of witnesses.

For our first panel, we are joined by Simon Cameron, from the workforce and corporate policy team at the Convention of Scottish Local Authorities; Gerry Cornes, workforce portfolio lead at the Society of Local Authority Chief Executives and Senior Managers Scotland; Tracey Dalling, Unison Scotland's regional secretary; and Jane Fowler, president of the Society of Personnel and Development Scotland. I welcome our witnesses to the meeting.

I will ask the first questions. I will begin with a broad look at the bill overall. Last week, the committee heard from local government and third sector organisations. Although they were concerned about some aspects of the bill, most witnesses welcomed parts of it. What are the witnesses' general views on the aims of the bill?

**Tracey Dalling (Unison):** I will start by saying that the priorities are all wrong. I do not think that it is the right time to be spending upwards of half a billion pounds on set-up costs for new quangos when we have so many vulnerable people waiting to receive a service. Our biggest issue with the bill relates to what it does not say, rather than what it does say. In our submission to the committee, we have been very clear that we think that the bill should be withdrawn and should, ostensibly, start again.

That is our view in a nutshell. I will stop there, in the interests of time, but I can elaborate further if needed.

**The Convener:** You say that the bill should "start again". In what way should it start again?

**Tracey Dalling:** There should be full consultation, from the bottom up, on the design of a national care service. We do not think that the framework bill, as it stands, is robust enough to deliver what the Government is trying to do.

**Gerry Cornes (Society of Local Authority Chief Executives and Senior Managers):** As expressed in the submissions from COSLA and SOLACE, we support the aspirations and some of the key objectives of the bill relating to the opportunity for a national care service to provide national leadership and to address things such as workforce planning, training, national standards, procurement, commissioning and so on. A national

care service could deliver some real benefits, but we question whether such a massive structural change is needed to deliver those outcomes.

**Simon Cameron (Convention of Scottish Local Authorities):** I support what colleagues have said. To be clear, across Scottish local government, we want to improve. We understand that there is always a need to advance our services. When it comes to that improvement, we can support a lot of what is in the bill. However, the risk is that it will undo a lot of the good work that is happening. We have integration joint boards—which are still relatively new, so the cultures are still developing—and there is a lot of good and well-embedded practice, but we risk unravelling some of that instead of continuing to advance it.

As Tracey Dalling and Gerry Cornes have said, it is about investing in where the real need is—at the front line, where people experience services day to day—as opposed to changing the structure through which we currently deliver our services.

**Jane Fowler (Society of Personnel and Development Scotland):** I support the views of my colleagues. There is potential for us to introduce national standards and national workforce planning, and to deliver care more consistently across Scotland. We definitely see that as a positive and, in local government, we are fully committed to working with all partners to make sure that that is delivered. Following the Public Bodies (Joint Working) (Scotland) Act 2014, we have worked very hard to make integration work, and our workforce is now integrated across health, social care and social work.

One of the key challenges and pressures—and the biggest difficulty—relates to what happens to our workforce. In local government, 75,000 staff are affected. We cannot say to them who their employer will be. That is very difficult for a workforce that is already under significant pressure. At the moment, we have lots of partnership working on the go to alleviate that pressure. However, it is really difficult for us, as employers, to explain the issue, because we are not clear on it. The fundamental issue for us is about how our workforce will move forward from its current integrated position to a new arrangement that is still not clear to us.

**The Convener:** Given the current spending challenges, and given that, in real terms, councils now spend about 20 per cent more on social care than they did in 2010, what more could be done, without having a big structural change, to improve the current system and structures? For example, some of you touched on things such as giving IJBs more time to bed in.

**Jane Fowler:** Although there has been significant investment in social care, the workforce is under particular pressure. Across Scotland, there are some fantastic examples of good practice. However, not all care employers or care service deliverers have the capacity to implement those excellent practices. A practical step could be to invest in supporting transformational change in care—in recognition of the current issues of workforce supply and attendance, and the general pressure on the workforce—and in supporting our managers and leaders in the care service with a little more capacity and capability, so that they could try out and implement some of the excellent examples of best practice.

**The Convener:** Will you help the committee by expanding a little on one of the excellent examples?

**Jane Fowler:** Certainly. The way in which our employment and contractual arrangements operate tends to involve fairly fixed shifts, which are allocated to people by, for example, their home care organiser.

In the retail sector and in other areas of the private sector where sessional work is carried out, people will have an app in which they can select the shift that they want to do. That suits their work-life balance and how they want to operate. It means that they can pick up work when it best suits them and that the employer has clarity in real time about where there are gaps in service delivery. Our colleagues in South Lanarkshire Council have just introduced that system, and many other care providers would be interested in doing the same but either do not have the information and communications technology or the management or implementation capacity to do so.

**The Convener:** It is great to hear about that flexibility.

**Tracey Dalling:** To be blunt, if we are looking for some extra money, we need to strip the profit out of care. The Scottish Trades Union Congress did some analysis of that. In private care, there is less investment in the workforce than there is in the public sector, wages are £1.60 per hour lower, complaints are more frequent and up to £13,000 per bed, per year, leaks out of the system in profiteering.

We need to be really cautious that the national care service, however it is structured, has ethical commissioning at its root. We need a huge amount more detail about what that would look like. Just saying it will not be enough. We need to know that, if rogue contractors extract money out of care—to be frank, we know that it ends up in the Cayman Islands in some instances—they will be stripped of their ability to deliver public sector contracts in Scotland. The monitoring needs to be

robust to ensure that we get absolute value for money.

**The Convener:** Is it your sense that, at the moment, we are not monitoring well enough?

**Tracey Dalling:** We are not.

**Simon Cameron:** I will follow on from Jane Fowler's points about some of the good practice that is happening.

In COSLA, we would welcome having a single integrated health and social care record. When we look across the system, we can see the investment that there is at a local level, the need to procure locally as opposed to nationally and the need to develop a system and relationships that enable us to share data and reduce the administrative burden that is on a lot of staff. We hear about how time poor the staff are. That is because of the bureaucracy that often drives the work that we have to do, instead of being able to work directly with individuals.

Those improvements can be made, and they do not require the overall structural change that is at the heart of the bill. In fact, those improvements have long been spoken about with colleagues in all parts of the sector. The empowerment to get on and make them would drive a lot of the positive changes that we seek right now.

**The Convener:** When you say "empowerment", what would need to happen to empower people through the measure that you talked about—the digital record?

**Simon Cameron:** I suppose that it is about having trust across the system so that people can work together. It is about not only members of the public but organisations understanding the rigour of data sharing and the legal agreements that are needed for that. It is also, to go back to the procurement process, about the combined public spend that organisations could put towards such a system, as opposed to there being individual systems for individual organisations.

**Gerry Cornes:** I will build on one of the points that Simon Cameron made. We need to acknowledge just how new IJBs are; they have existed for only six years. There is a period during the set-up of such organisations when the focus is naturally on governance and getting the right systems in place. Then there was the pandemic, when we were reactive. IJBs are new organisations that are just starting to develop and drive the improvement that we are looking for.

On your question about what could happen now, convener, much of what is in the joint statement of intent can be delivered within the existing system, whether that is examining eligibility criteria or support for unpaid carers. The investment that would be required for that within a national care

service could, if targeted now, deliver that. There is an opportunity for that to happen in parallel with the things that a national care service can lead on at a national level, such as ethical procurement and ethical commissioning, which Tracey Dalling mentioned.

**The Convener:** Thank you very much. Those responses are helpful.

I will move on to questions from Mark Griffin.

09:45

**Mark Griffin (Central Scotland) (Lab):** Last week, some witnesses expressed the view that this is a reform not only of social care but of local government. I see nodding heads and assume that you agree with that. Do you feel that there has been enough discussion, debate or strategic thought about the future and sustainability of local government if the reforms go ahead?

**Simon Cameron:** I do not think that there has been enough debate and discussion about the sustainability of local government. We recognise that the bill includes the ability to transfer both people and assets. As Jane Fowler said, all our services are integrated at local level. There is an interdependence between education, housing, social care, social work and numerous other services. Front-line services work together and need a strong relationship to be able to deliver effective local services to individuals, but there are also back-office services such as human resources, information technology, procurement and finance. If you take one part out of local government, you potentially start to unravel the viability of local authorities of all sizes.

I do not think that there has been enough discussion. The financial memorandum does not look properly at the consequences. We do not understand the costs that might be associated with things such as pension entitlements. Those will not automatically transfer under the Transfer of Undertakings (Protection of Employment) Regulations, but will what is left behind be viable?

There are lots of dimensions that we need to discuss properly and in depth. We also need to reflect on some of the other conversations that we have been having with Government for a number of years. There is the local governance review: Scottish local government has been working not only with the Government but with public sector partners to look at different models for delivering services more effectively and efficiently by changing the overall governance model. As well as the national care service bill, there are other things out there that are progressing and that we could spend more time on.

**Mark Griffin:** Does anyone else want to speak?

**Jane Fowler:** This could become a numbers game. There are 250,000 employees in local government, which includes all our teachers and everyone who delivers our front-line services such as roads and amenities, as well as our back-office staff.

We are bureaucratic and democratic organisations. There is a network of support staff to enable the democratic functions to take place. If we start breaking that up, particularly in smaller local authorities, and transfer perhaps 75,000 of those 250,000 staff into whatever the employment arrangement for the national care service is, that will significantly reduce the size of local authorities. Unless there is any other structural change, or any other change to the nature of local authorities, that almost feels like death by a thousand cuts.

We are being constrained. Our revenue budgets are being affected—as are those of everyone in the public sector—and a significant part of our staffing might be removed. I can give a brief example. The local authority that I work for runs a customer service centre that handles calls for our social work and social care colleagues. We also have an IT system with integrated web-based applications to support our revenues and benefits. Would I be expected to take off a chunk—perhaps a fifth to a quarter—of that team and donate those people to a national care service, where they would have to rebuild a service delivery structure that is already working locally and accountably? Would that be chopped off and built into something new? That seems really inefficient.

It is really significant for us in local government to have clarity about how this will affect our operations overall. We could do with a lot more of those conversations before any final decisions are made.

**Tracey Dalling:** You cannot take a third out of a council budget without having a significant impact on what is left. If the intention is to reform local government alongside care in our communities, by design, it would have been helpful if that had been clear and up front from the off. To do that by accident is something that is impossible to comprehend, given the devastating impact that it would have on the local government workforce. If some 75,000 staff go out, and their pay, conditions and pensions are not clear, the remainder will be left thinking, “Where are we going next? Is it somewhere else? Is there some kind of structural reform?”

Structural reform has been mooted for years. When we were in the corridor outside this room, some of us were reminiscing about our old Strathclyde Regional Council days—that is how long many of us have been about—and we well remember local government being reformed in

1996. Those memories live on. I am not sure that that is where we really need to be in 2023, given everything else that is going on and the funding pressures that exist. I do not think that structural reform is a sensible thing to do alongside the creation of a national care service, not least because all reforms cost money.

I am not saying that we should just leave a system alone if it is not working. However, I do not think that any of us is saying to you that local government is so fractured and broken that it needs to be completely reformed and restructured at this stage. My plea to you would be to leave well alone.

**Gerry Cornes:** Much of what I would have said has been said. To answer Mark Griffin’s question, it is fair to say that colleagues in COSLA and SOLACE would have welcomed more discussion about not only the bill’s direct implications but its indirect implications, in the context of what is left behind and what mass transfer and huge change would mean for the resilience and sustainability of the services that are left with local authorities. As my colleagues have said, many of those functions operate across a range of front-line services, and if a large chunk is taken out, there will be a real impact on what is left behind.

**Mark Griffin:** The police and fire service reforms are fairly recent examples of services that were run at regional level being centralised. Tracey, can you comment on the impact of that centralisation on your members, particularly the civilian support staff who went from the regional services to a national one?

**Tracey Dalling:** It was a hugely unsettling time for them. The biggest issue was pay, because there was no equity, if you like, in who got paid what, or in when, how, where and why. The rationalisation and evaluation of all those jobs was a huge undertaking. It has taken years and a huge amount of investment to sort out all the pay. As you can well imagine, someone who works in a police station in Glasgow will not welcome being paid less than someone who does exactly the same job in a police station in Edinburgh.

All that needs to be worked through. There are huge equal pay risks in all this, if there is not proper investment, as everyone then would work for the same employer—the Scottish Government, if we are talking about the national care service. We already have people saying, “Why am I being paid differently?” We have a bit of a bleed of social work staff who are under pressure and move from one place to the next because the money is better. If there is a move to equalise things, there will have to be huge investment in that. We need to learn from the police and fire examples, because it takes years and years to sort everything out when you bring everyone together at one time.



I am not saying that that is a bad thing; it can be a very good thing, because you do not then have that bleed within the service, with staff moving and transferring all over the place just for a few extra pounds. If the pay is set properly, you will have a more stable workforce, but you will not get that without investment.

**Mark Griffin:** Thank you.

**Paul McLennan (East Lothian) (SNP):** Good morning, panel. I come to this with 15 years' experience as a councillor and as a former council leader.

The bill is a framework bill. My question is for Tracey Dalling, but I will come to Gerry Cornes after that. Tracey, you have almost suggested that we should rip up the bill and start again. Is there an argument for being involved in the co-design and co-production as we go forward, rather than starting the whole process again? Why would that not be the best approach? I am playing devil's advocate here.

**Tracey Dalling:** I will throw a question straight back at you. What do you mean by co-design? That is not clear at all. If it is a string of meetings, we can do that anyway—and we do.

Co-design works best when it is done at local level. For years we have talked about it in the context of social care, where care receivers and care givers sit down with professionals and co-design the services for them. That approach could be ramped up to board level.

Decisions need to be made about the postcode lottery element. Would the provision differ from place to place? I ask because social pressures might differ between one place and another, even if a cash sum were to be provided for care packages across the board. We have no idea what is meant by co-design in the context of the national care service. We can guess at it but, because the framework bill is worded so loosely, that is really difficult to determine. Therefore, it is easy for us to be critical and ask the Parliament to go back to the start and be far more specific about exactly what it means by co-design.

**Paul McLennan:** Do you not think that that process could be done now rather than by going right back to the start? If the framework is established, there will be an opportunity to develop the service beyond that.

**Tracey Dalling:** No, I disagree.

**Paul McLennan:** Okay. I might pick up that point later. At last week's meeting of the Social Justice and Social Security Committee, the same issue was raised by various groups who had different opinions on it.

Gerry, what is SOLACE's perspective? Do you share the view that we should go right back to the start, or should you be involved in further discussion on co-design and co-production?

**Gerry Cornes:** First of all, we fully support the principles of co-design and co-production. Those currently happen at local level, where we employ the person-centric approach in that the service user is at the heart of the way in which we seek to deliver our existing service. We have absolutely no argument whatsoever with those principles.

I hark back to my earlier answers, where I said that, to deliver on co-design and co-production, we do not need a wholesale change to a national care service delivery model. There is a role for such a service, which could include setting out the principles of and high-level guidance on co-design and co-production. However, it is best if those take place at the most local level, which would be closest to the people who receive the services.

**Paul McLennan:** Could that be done after the framework element has been established? Could the feedback that you have given be taken into account now rather than going right back to the start? I acknowledge your points, but we are where we are. Is there not an opportunity to take the learning from this exercise and move forward with the second phase, which is the co-design and co-production of what the national care service would actually look like?

**Gerry Cornes:** A national care service that focuses on the high-level strategic issues that I mentioned, in parallel with local democratic accountability and local delivery approaches that strongly feature co-design and co-production, is a model that could work in future.

**Paul McLennan:** Does anyone else want to come in on that aspect?

**Simon Cameron:** Yet again, I go back to the key point on co-design, which is about individuals feeling as though the framework has been predetermined. How do you get people to the table to carry out the co-design process when they feel that an answer has already been given to them? If you are truly carrying out co-design, you start with a blank bit of paper and take people through the process.

As Tracey Dalling highlighted, a care service should fundamentally be about an individual's wants and needs, the local determinants that have shaped their circumstances, and how we can best support them. That is opposed to what we might determine from a national co-design exercise, which would look very different across all the parts of Scotland, whether they be rural, urban or everything in between.

**Jane Fowler:** I will come in briefly. We are working hard to embed the principles of the Scottish approach to service design, which is all about identifying with the service user, at the beginning of the process, what their need is. We would be looking for the same approach to be taken in the development of the national care service, by identifying what we are trying to fix and how all the stakeholder bodies can work collectively to deliver what is best for the person who is receiving the service at the end point.

**Paul McLennan:** I have two further questions, one of which is specifically for Unison and the other of which is for Jane Fowler.

I will come to Jane first. You have mentioned your concerns about the possible removal of local government workers but not the impact on national health service staff. What are your views on that?

10:00

**Jane Fowler:** That is really challenging. We currently have health and social care partnerships with fully integrated teams. Our chief officers, heads of service and third tier managers are interchangeably integrated between social work, social care and health. If some of those people are moved into a new delivery body and the rest go back to the NHS, but responsibilities for functions such as community health go to the local care board without any staffing complement, that local care board will start out with a responsibility but with no people and no workforce resource to deliver that.

That issue was clear to us early on. We have an integrated workforce, but that is to be split apart, which causes great uncertainty for our employees. We want to know the principle of intent for the future integration of the national care service. If we can recognise that and articulate it to our workforce, they will understand the direction of travel and we will be able to communicate that to our communities, who are wondering what is happening.

**Paul McLennan:** I have a final question for Tracey Dalling. One key idea that was mentioned at the start of planning for a national care service was that it would lead to improved terms and conditions for social care workers. Retention and recruitment are immediate issues. Do you accept that the improved terms and conditions of the national care service could be of benefit?

**Tracey Dalling:** That is one aspect that we would welcome. One of the principles of founding a national care service is that it will be an exemplar in its approach to fair work. That is a huge step forward. If it is embedded further in the national care service, that can only be a good thing.

**Paul McLennan:** Does anyone else want to speak about terms and conditions? One of the founding principles of the national care service is to improve those, because of a recognition of the retention and recruitment issues.

**Jane Fowler:** You are absolutely right about retention and recruitment, and Tracey Dalling has covered that.

My strongest word of caution would be about the challenge of equal pay. There is a model for that in local government, because teachers have a single set of terms and conditions and a national pay and grading system. We have a pay and grading system across the Scottish joint council for other local government staff, but we each apply different pay grades to that. There is an evaluation process that attributes spinal column points, and that is equality impact assessed, but we pay slightly different amounts associated with those spinal column points.

However, although we introduced single status in local government in around 2008—

**Paul McLennan:** I remember it well.

**Jane Fowler:** —equal pay challenges are still lurking around. We are talking about an expensive and major exercise. The point is similar to the one that Tracey Dalling made on the creation of the national police and fire services. That is my word of caution.

**Simon Cameron:** We are talking about not only local government but other providers. How do you level up but not threaten the very good terms and conditions that are in place in local government? We can always make improvements but, if we are trying to level everyone up, how do we do that and afford the cost in one fell swoop? That is what people would expect.

It will be a long process. It is about reinvestment and about the procurement that Tracey Dalling spoke about. There will be scrutiny and we must take people forward properly and ethically to deliver services. As Jane Fowler said, there are hidden costs and hidden risks that have not been properly explored.

**Tracey Dalling:** On a more positive note, we have had some engagement on the creation of sectoral bargaining and would not want to lose that under any circumstances.

**Paul McLennan:** Collective bargaining is really important.

**Tracey Dalling:** The social care staff who are out on the streets, or in the house next door looking after someone's granny, are vulnerable because of their pay and conditions. There have been recent examples of big companies that operate across the UK saying that they will not

bother with the Covid sick pay scheme and that staff should just come to work. The Scottish Government has put those funds in place and made them accessible, but the companies do not bother with the scheme in Scotland because they could not do it across the whole of the UK.

With some Scottish Government intervention, we have sorted that out with one of the big organisations, but there are other examples where we need to be canny or cautious so that we do not allow contractors to come in and have a race to the bottom. The sectoral bargaining needs to be based on clear founding principles. We are working our way through that, and we have huge engagement around it. We want to continue to proceed with that without losing any more of the social care workforce than we have already lost. We know that they are key workers, and we need to value them.

**Gerry Cornes:** The situation is slightly concerning. I am going to sound like a broken record here, but I think that we can deliver on a lot of the fair work principles under the existing model. A national care service can do great work by way of ethical commissioning. However, the points that Simon Cameron and Jane Fowler have made are pertinent: we need to understand the implications for job evaluation in local government of raising all the standards that we want to raise. That is where close dialogue is required.

**Paul McLennan:** So the proposals are welcome, but there are complexities that we need to examine.

**The Convener:** We now move to questions from Marie McNair, who is joining us online.

**Marie McNair (Clydebank and Milngavie) (SNP):** Good morning. Most of the questions that I was going to ask have been covered, and I appreciate the answers that have been given.

Last week, the witness from the Chartered Institute of Public Finance and Accountancy, the organisation for directors of finance, highlighted issues relating to pensions, and the Unison submission highlighted concerns that the Transfer of Undertakings (Protection of Employment) Regulations 1981 do not guarantee the maintenance of existing pension arrangements. Can anyone comment further on that?

**Tracey Dalling:** Quite simply, employees leave one employer and move to another using the TUPE regulations, and everything is protected bar pensions. There is an option for new employers to ask for an admitted body status for the pension scheme, but that often comes with cost implications, and it is not what employers want to do, particularly if they have bid for a contract on the basis of cost. They will not want to pay what they would see as an unnecessary expense.

About 70,000 or 75,000 social work staff would then be out of the local government pension scheme. The more money that goes in, the more that is invested, the better the return and the more stable the scheme is. There is huge concern, not least for the group of people who will be out of the local government scheme but also for those who will be left in it, about the current council arrangements. It is known as the local government scheme, but Scotland's colleges are in the scheme, as are some university institutions. There are therefore some serious questions about the future viability of the scheme, should everybody be shifted out into the vagaries of what would be an employer-based scheme.

**Gerry Cornes:** That illustrates the real uncertainty for our workforce just now. The question of pensions is a very complex one, and it is closely linked to who the eventual employer might be. We cannot give any information on that at the moment. If the care board is the employer, there might be a different pension consideration. If there is a third party—whether it is from the private, independent or voluntary sector—there are huge pension implications and affordability questions for the organisations that might be receiving employees.

On the final point that Tracey Dalling made, taking a number of people out of a pension scheme will raise real questions about the viability and sustainability of the scheme in the future.

**Simon Cameron:** I will add a general point about what the message would be to all those who would be left behind, as it were, in local government—I do not mean that they would actually be left behind, as the value is across the whole system. The integrated nature of our services, with the reliance on front-line services working together across different resources and with public partners and third sector and independent organisations, is vitally important.

As a society, we need to value people more if we are going to recruit and retain them in social care, social work and wider roles, but we have a recruitment and retention challenge across the whole of Scottish local government for many different roles, professional and otherwise. If we carry on purely down the route of taking one portion of the workforce out, what does that say to all those in essential services who are left behind? If the pandemic has proved anything, it is the value and worth that Scottish local government provides to our communities every day through the rich tapestry of services that we deliver, many of which are unseen but are essential and maintain day-to-day activity for individuals.

I just wanted to make that broader point.

**Miles Briggs (Lothian) (Con):** Good morning. I thank the witnesses for joining us today. I want to follow on from the previous line of questioning. We know how closely intertwined social care and social work are with council services. Specifically in relation to the transfer of local authority workers, what other consequences has the Government not taken into account?

**Gerry Cornes:** We have probably touched on that in our answers to one of the previous questions. For employees who are transferred to a different organisation, the consequences will involve on-going work and consideration of the interface with the services with which they work closely, including—as the committee will know—education, housing and so on. That is one dimension that needs careful consideration.

The second dimension concerns the impact of the loss of those services on the services that remain. For example, we have support services that provide support to a range of other front-line services. The impact of the loss of the front-line services on some of those support services will, depending on the model, have a real impact on local government and the sustainability and resilience of what is left, although that is not a particularly nice term to use.

We have multidisciplinary support teams, and if some or all of them move, what is left might not be sufficient to provide the necessary level of support and resilience for the services that remain. There will be huge consequential impacts as a result of the transfer of such a large portion of local government staff.

**Jane Fowler:** We have to remember that the workforce is regulated, and there will be a significant impact on our social work colleagues, too. There is a lack of clarity on where the chief social work officer will sit. There is currently direct accountability to local authority chief executives, so there is a question about where that protection will sit.

On a practical basis, when managers who are responsible for highly regulated service delivery do not have sufficient support through their support staff, they end up having to do that work themselves, which diverts them away from using their professional skills and experience to deliver the service, solve problems and improve things. As soon as we start transferring people out, we lose those economies of scale. That is where the national care service could come in and provide support in some way, by taking away the bureaucratic burden within the existing service and freeing up our professionals to do what it is that they are good at doing and that we need them to do. It is important that we consider the impact of putting a greater burden on our professionals if they are needed to carry out that support work.

**Simon Cameron:** I would also reflect on the issue of democratic accountability at a local level. Staff within the council structures, working in the way that they do across services and so forth, are able to deliver services based on the needs of local people and to understand the interplay between education, housing, community health services and so forth.

Ultimately, if we separate out a proportion of staff, that democratic accountability is taken away and the priorities at a national level override local priorities. That necessarily creates tension between the two, and when people seek an improvement in their services, that is unable to happen. We rely on all the services to work together to get people into their homes and keep them there, and to enable them to live well and be healthy. If we separate out staff, we ultimately create tensions that we might not be able to overcome.

We have been working, through integration joint boards, to address the challenge of partners working positively together. This change will simply undo the distance that we have travelled so far, with the seven or so years of integration joint boards and the rest, and will take us back to the starting point, only this time around the services will be taken away and the viability of services will be put at risk, and ultimately we will have to rebuild relationships based on the two competing priorities: national versus local.

10:15

**Tracey Dalling:** We know that outsourcing workers leads to a reduction in their pay, their terms and conditions, their employment stability and their ability to deliver good-quality care. Good-quality care is delivered, usually, by workers who are adequately and properly rewarded for the services that they provide.

I am seriously concerned that the transfer will have a marked and disproportionate adverse effect, by gender, race and disability. Equality impact assessment work has been done in relation to service users, but nothing has been done in relation to the workforce, and if what is proposed comes to pass, such issues will have to be explored in full to ensure that we do not put in place structural reform that is inherently discriminatory.

**Jane Fowler:** I absolutely agree with the point about equality impact assessment in relation to protected characteristics.

There is also the fairer Scotland duty. We need to consider the additional impact on our island areas and small communities, where services are already stretched over vast areas and delivery brings additional complexities. The pressure on

the workforce will become greater, and the need and demand for some kind of economy of scale will have to be taken into account. As soon as we add into the mix uncertainty about a change of employer, and as soon as we start to think about what additional things we are asking people to do to deliver services that are already challenging to deliver, I will be interested to see the impact assessment.

I know that there has been an island communities impact assessment in relation to the bill, but there are already significant challenges in remote, rural and island areas. We have heard how people across local government are struggling to recruit a social care workforce. What is proposed is compounding uncertainty and is compounding it further in remote and rural areas.

**Miles Briggs:** I think that all the committees that are considering the bill are hearing those concerns.

In their submissions, COSLA and Unison described a scenario in which local authorities could be competing against private and third sector providers. At last week's meeting, we heard about two areas in which co-design—for want of a better word—with the third sector has been useful: the ending homelessness together programme and the Promise. People wish that the Government had approached the national care service with those principles in mind, rather than telling organisations how things will be.

Will you talk about your concerns about competition? Are they purely to do with bidding for contracts in the future, or are they also about workers' terms and conditions? Tracey Dalling, you have touched on that.

**Tracey Dalling:** They are absolutely about both.

If one screw comes undone, we do not dismantle the whole thing and rebuild it; we try to put the screw back in. In the areas that you talked about, there have been fixes.

You have heard from my colleagues that what we have on the stocks just now is not perfect but delivers social care. There will always be room for improvement, and we can all tell stories of particular third sector employers who do not serve their staff well. The last thing that we want is for councils routinely—and it would be routinely—to have to go through the process of contracting for work, preparing bids and going through the tender process, which creates a huge amount of uncertainty and involves staff moving from one contract to another fairly regularly. We see that approach in different fields, and it does not allow employers to recruit and retain valuable and committed staff.

There is a propensity for things to be a mess and costly on every level—from my point of view as a trade unionist, I mean “costly” in the sense of what is in our members' pockets at the end of the day. If our members end up contracted out—hired out—to a range of employers over the years, their pay will only diminish over time. It will not improve.

**Gerry Cornes:** The prospect of a bidding process is another area of uncertainty for local government. Looking at the question logically, I guess that it would depend first on a care board's commissioning strategy. As I understand it, a care board could still be a direct employer or it could choose to commission work.

We then get into the question of bidding for contracts. A local authority would have to choose to bid for the work if it did not have the statutory accountability to deliver it. That choice would have to be made locally, so there is uncertainty in that. Uncertainty is also generated by a bidding process during the run-up to it, the evaluation, the award and the period of time after an award, which is always uncertain, too.

There is also the prospect of bidding against the private, independent and third sectors. There are all the TUPE and pension implications that we talked about, and there is also all the resource that has to go into preparing a bid and assessing those implications.

Local government would be much happier if such efforts were directed to co-production and co-design with our colleagues in the independent and third sectors in order to improve outcomes at a local level.

**Jane Fowler:** We are talking about a workforce that we say that we value because it delivers an important service for the people of Scotland, but we are talking about a system that would mean that, if we go through compulsory tendering, we could be TUPE-ing people from employer to employer, over and over. To me, that does not paint a picture of a valued workforce.

**Miles Briggs:** That is a good point.

**Simon Cameron:** Yet again, the discussion is bringing us back to the point about local democracy. If the bill empowers ministers to appoint and abolish care boards, what national imperatives will be imposed when there is a fundamental lack of understanding about local needs and how we deliver services? Is the route when trying to solve the problem always to say that a particular care board did not work this time round and did not appoint the right organisation, so we will abolish it, set up a new one and tell it where to appoint next? We will get people caught in the trap of wanting a service that is individualised and personal but that is actually

driven by a national imperative and, therefore, not providing for their needs.

**Miles Briggs:** We will be speaking to the minister after this session. What would your message to him be? Perhaps we will start with Gerry Cornes on my final devil's advocate question.

**The Convener:** Please keep your answers brief, because Willie Coffey has two or three questions and we are rapidly running out of time.

**Gerry Cornes:** I would say to him that he should consider the positive outcomes that the national care service could deliver without the wholesale structural change that would be required for it to become a delivery operating model. I would focus resources on the delivery of national leadership, workforce planning and ethical commissioning within the existing model.

**Tracey Dalling:** I would say that the bill will not improve the quality of work in social care or the quality of employment for workers in care at home and residential care. The fair work in Scotland's social care sector inquiry was directly about improving that, and the bill does not fulfil the inquiry's aspirations.

**Jane Fowler:** I would say everything that my colleagues have said, but I would also ask whether we need to plough ahead with the bill now. We have a very difficult winter ahead of us. The bill is taking up a lot of resource, taking up a lot of people's time and creating a lot of anxiety. Can we take a breath at least until after the winter so that we can get through the challenges that we currently face?

**Simon Cameron:** We demonstrate to the workforce across Scotland that we value them by investing in them, empowering them and trusting them to do the jobs that they know well how to do. We need to give them the ability to do the job more effectively. Instead of continually wanting to scrutinise and asking for reports, we should allow them to work with individuals. That is where we need to move to.

**The Convener:** I will bring in Willie Coffey. We are running out of time, so I ask you to direct your questions to specific people. That would be fantastic.

**Willie Coffey (Kilmarnock and Irvine Valley) (SNP):** I will be as quick as I can, convener.

Good morning. The Feeley report has been on the table for nearly two years. Do the witnesses agree with Feeley's principal recommendation that there should be a national care service?

We will start with Simon Cameron.

**Simon Cameron:** We agree that improvement is required in the system. I refer to some of the

points that colleagues have made, including Gerry Cornes's point that we can do certain things nationally, such as workforce planning and the setting of standards. That is how we can create efficiency and effectiveness in the system.

Fundamentally, we need something that empowers the system, empowers individuals at the local level and empowers local democracy to deliver and meet individuals' priorities and needs. We can stand behind the principle of a national service that enhances the opportunity to deliver better services, but we need to warn against a structural reform that would take away from the ability to deliver locally and take investment away from front-line services.

**Gerry Cornes:** My council's written submission confirms support for many of the aspirations and outcomes that the Feeley review highlighted and the overarching intention to improve the quality of, and people's access to, social work and social care supports. That would be my answer. I believe that there is a role for a national care service, but it is the one that I have articulated in my responses to the committee. I do not believe that there is a need for the full-scale structural reform that is being talked about.

**Tracey Dalling:** I echo that. Who could disagree in principle with the proposed national care service if it was akin to something that we have had for 80 years in the national health service? However, it is not. It would take services out of councils and the NHS, and it is not the national care service that we need.

**Jane Fowler:** I have nothing to add. I agree with my colleagues.

**Willie Coffey:** I will ask my second question. Recommendation 20 in Feeley's report states:

"The National Care Service's driving focus should be improvements in the consistency, quality and equity of care and support experienced by service users."

How do we get consistency, which is at the heart of the work that Feeley did, across Scotland if we do not have a national approach? That is one of the main issues that he raised in his recommendations, and I imagine that the bill is trying to solve that. How could we get the consistency that we seek without a national approach?

**Simon Cameron:** That is a very good question. Like Gerry Cornes, I do not want to sound like a broken record, but we fundamentally need to get to a position where there is trust, investment at the local level and the empowering of local democracy to work with individuals in communities to co-design and develop services in a manner that meets their individual needs, as well as the wider community's needs.

As we have said, we could do something that, through its overall structure, would suck people up into an organisation, but the challenges would remain the same. We talk about consistency, but the reality is that, whether people live in the Highlands, the Scottish Borders or Glasgow, they have different needs based on the circumstances that they live in. We have to empower the system to work on the basis of those needs and not assume that we know what everyone will need or want in all parts of the country.

**Gerry Cornes:** I completely agree with the principle of driving a focus on consistency but, when I think about that, I think about consistency of outcomes for service users. There will be different delivery models at a local level, which are best informed by local co-production and co-design, but we should be striving for consistency of outcomes across the country. That is where there is a role for a national care service, which should look at national standards and where we can drive improvements.

**Willie Coffey:** Tracey Dalling, how can we get consistency if we do not have the national approach that Feeley recommended?

**Tracey Dalling:** You have heard from my colleagues and, I am sure, a range of others that you will not get it by nationalising the service. The answer relates to the local delivery that has been talked about this morning. The minute you make a council a contractor, you will be into a whole different ball game. You will then have 32 contractors all bidding for services, and I think that you will struggle. People say that they are intent on consistency across the whole of Scotland, but the more contractors you put in the frame, the more variance you will get in service delivery. It would be a mistake to go down that road.

We have heard some good examples of where councils are well equipped and able to deliver for the people of Scotland without a national care service or care board commissioning having been put into the mix.

**Willie Coffey:** Do you believe that there is sufficient consistency and quality of service across Scotland at the moment?

**Tracey Dalling:** There is always room for improvement. I am a trade unionist and not a social worker, so I cannot say explicitly what happens on the ground. There will be various examples—good and bad. What I can say is that a consistent outcome will not suit everybody all the time. There needs to be flex in the system to meet service users' needs, which will vary.

**Willie Coffey:** Jane Fowler, do you have anything to add?

**Jane Fowler:** As my colleagues have said, and as, I think, we have reflected before, national standards, consistency, improvements, national workforce planning and training can all support service delivery and the sharing of best practice and good ideas about improvements for the future.

In education, we have a consistent set of standards but a variety of workforces. The 32 local authorities are the employers, but they all come together and work to a set of standards that are set nationally, which achieves consistency across Scotland without structural change.

**Willie Coffey:** Those ideas are very much contained in the Feeley report. I hope that, when we hear from the minister, who will give evidence next, he will tell us how they form part of the bill.

I thank the witnesses for their contributions in answering my questions.

**The Convener:** That brings our evidence session to a close. I thank the witnesses very much for coming in this morning. Their responses have been very helpful to the committee's work.

I will suspend the meeting to allow a change of witnesses.

10:31

*Meeting suspended.*

10:35

*On resuming—*

**The Convener:** For our second panel of witnesses, we are joined by Kevin Stewart, the Minister for Mental Wellbeing and Social Care in the Scottish Government. Mr Stewart is joined by Ian Turner, deputy director for national care service programme design, engagement and legislation in the Scottish Government, and Anna Kynaston—I hope that I pronounced that right; you can correct me when you speak later. Anna is deputy director for national care service programme design, engagement and legislation, also in the Scottish Government. I warmly welcome the minister and his officials. Before we turn to questions, I invite Mr Stewart to make a brief opening statement.

**The Minister for Mental Wellbeing and Social Care (Kevin Stewart):** Good morning to you, convener, and to the committee, and thank you for having me along to give evidence on the National Care Service (Scotland) Bill. It is fair to say that the national care service is one of the most ambitious reforms of public services since the creation of the NHS. It will end the postcode lottery of care provision across Scotland and ensure that those who need it have access to consistent and

high-quality care and support to enable them to live a full life, wherever they are.

The bill sets out a framework for the changes that we want to make and allows scope for further decisions to be made as it progresses through Parliament towards becoming legislation. That flexibility will enable the national care service to develop, adapt and respond to specific circumstances over time.

I want to take time to reflect on why change of such scale is necessary. Scotland's community health and social care system has seen significant incremental change over the past 20 years. Despite that, people with experience of receiving care support, and of providing it, have been clear that some significant issues remain. Those were detailed in the 2021 independent review of adult social care services, which set out a compelling case for change, including recommending reform of social care in Scotland and strengthening national accountability.

We are not just changing to address the challenges of today; we must ensure that we build a public service that is fit for tomorrow. Today, about one in 25 people receives social care, social work or occupational health support in Scotland, and demand is forecast to grow. The NCS must be developed to take account of our future needs. We will build a system that is sustainable and future proofed to take account of the changing needs of our population. I believe that the principles for an NCS, as set out in the bill, support that aim.

This is not about nationalisation of services. The bill sets out that, at national level, the functions are focused on consistency through national oversight. Services will continue to be designed and delivered locally. That is the right approach, to support delivery with and for our communities and the people whom those services serve. Local government will be an important partner as we design the detail.

We are conscious of the importance of the role that housing plays in supporting independent living. We will look at how services such as housing support, adaptations and technology contribute to the principles that are set out in the bill. Of course, those services should deliver increased early intervention that prevents or delays the need for crisis care. It is for that reason that we recognise how valuable the interfaces between housing and homelessness services with the NCS will be. We want everyone in Scotland to have choice, dignity and freedom to access suitable homes that are built or adapted to support their needs. We are embedding a person-centred approach that will align the NCS with housing and health services.

The NCS will bring changes that will benefit the workforce, too. The importance of staff in the social care sector has never been clearer, and we are fully committed to improving their experience, because we recognise and value the work that they do. The NCS will ensure enhanced pay and conditions for workers and will act as an exemplar in its approach to fair work. Our co-design process will ensure that the NCS is built with the people whom it serves, and those who deliver it, at its very heart. We are committed to working with people with first-hand experience of accessing and delivering community health and social care to ensure that we have a person-centred national care service that best fits the needs of the people who will use and work in its services. Of course, convener, the service must have human rights at its very centre.

**The Convener:** Thank you. Before we move on to questions, I want to correct what I said about Ian Turner's title. I believe that he is the deputy director for adult social care workforce and fair work. Apologies for mistitling you at the beginning, Ian.

I will open up the session to questions. I appreciate your statement, minister, and I think that we will dig a bit deeper into some of the issues that you touched on. Focusing first on the broad role of local government, what are your views on the purpose of local government? Furthermore, what determines which services should be delivered by local government, and are there other services that could be reformed in such a way?

**Kevin Stewart:** As many committee members will know, I have a background in local government—I served for 13 years on Aberdeen City Council—and I recognise the importance of local government and local democracy. As we move forward with the national care service, local government will still play a major part in the delivery of services, if it chooses to do so. It is extremely important to set that out.

We have also said—I reiterated this at the Finance and Public Administration Committee last week—that, with the changes that we propose, we aim to create a cost-neutral position for local government as we move forward. However, it is clear to us from the feedback in the consultation, and it was absolutely apparent in the responses to the Feeley review, that people want to see a change in accountability for how care is delivered in Scotland. Disabled persons organisations, individuals and other groups feel that accountability is lacking at the moment. When I took up this post, I was surprised to find how important accountability is for people. At the moment, there is no national accountability to



Scottish ministers. We aim to change that and to make local accountability more important.

One issue is that people often feel that they are pushed from pillar to post—the committee may have heard that but, if not, I appeal to you to go and speak to those who are receiving care and support at the moment. People go to a health and social care partnership with a complaint about the care that they are receiving and will be told, “That’s not our responsibility—it’s the local authority’s responsibility,” or that it is the NHS’s responsibility. Therefore, accountability is extremely important for the many people whom we have talked to and, more importantly, listened to. It was also raised as being an extremely important issue in the evidence that Derek Feeley took. That is why his recommendations moved us towards introducing the national care service.

**The Convener:** Will you expand a little on what you mean by “cost neutral”, as I am curious about that?

10:45

**Kevin Stewart:** Obviously, there will be a shift of resources in ensuring that we get care delivery right. Some local authorities have expressed concerns that that may impact on other services. As we move forward, we are trying to reach a cost-neutral position, so that those impacts are not there. One of the main reasons why I want to ensure that COSLA, local authorities, SOLACE and others take part in the co-design process is so that we get it absolutely right.

**The Convener:** I am interested in the Government’s response to the City of Edinburgh Council’s view that the bill is not just reforming social care; it is reforming local government. You have a background in local government, so we would love to hear from you about that.

**Kevin Stewart:** There are huge opportunities here for all of us. As I have stated, this is about a change of accountability, but local services still need to be designed and delivered locally, and local government can and should still play a part in all of that. In that regard, I think that there is not much difference.

The difficulty that some folk foresee is with that change in accountability, but accountability has changed dramatically over the past years anyway, with integration joint boards and other things.

I should point out that the bill itself does not have a direct impact on local authorities, as it is a framework bill. Instead, it sets out the powers to transfer services from local authorities, and any regulations that are developed on the basis of those powers will be subject to further impact assessment, as I have said elsewhere.

As we are still co-designing the national care service and how it will work in practice, we do not yet have the full details that are necessary to evaluate all of the impacts. Parliament will have the opportunity to scrutinise those impacts once they are known. I again say that a huge amount of what we are doing will be subject to the co-design process and that I want local government to be involved in that all the way through.

**The Convener:** Thank you. We will move to questions from Mark Griffin.

**Mark Griffin:** Because of the way in which the legislation has been drafted, witnesses at a number of our evidence sessions have said that they have not been able to go into great detail about what the impacts of the National Care Service (Scotland) Bill will be. I know that the minister has talked a lot about co-design when it comes to secondary legislation, regulation and guidance. What consideration was given to co-design of the bill?

**Kevin Stewart:** Since the beginning of this parliamentary session, we have put a number of things in place in order that we can listen to the views of people, including the social covenant steering group. Some folk think that a framework bill is somewhat unusual, but a framework and enabling bill is exactly the way in which the NHS was established.

In listening to people—those from the social covenant steering group, in particular, but also other stakeholders—it became very apparent to us that people wanted to be involved in the co-design process all the way through, and that is why we decided on a framework and enabling bill, as was done with the NHS, to allow folk the opportunity as we move forward to co-design all the elements that slot into that framework bill. It is very important, particularly for those folks—the voices of lived experience—that we have done it in that way.

I know—I heard it at the Finance and Public Administration Committee last week—that some folk have asked why we did not do it the other way round, but it is difficult to design something without the framework of primary legislation in place. That is why we have done it in that way.

**Mark Griffin:** The minister gives the example of the NHS, but we had a framework bill in the previous session that set up a whole new social security system but still included elements of the priorities that the Government and Parliament would want to see in that system. When we think about some of the high-level principles and things such as Anne’s law or independent advocacy, which I know that the Government was committed to for the social security system, I wonder why

they were not considered for inclusion on the face of the bill.

**Kevin Stewart:** Anne's law is on the face of the bill and in primary legislation. Can I lay out the way in which this occurred? The consultation was published in August 2021, as I am sure the committee will recognise. That set out the proposals for change. The responses to the consultation supported change and a huge range of views were in favour of co-design principles. That allows us to work through all the matters that are important to people out there.

One of the key things that I should highlight to the committee is that, in the past, people have not been at the heart of the changes that we have made. That has created implementation gaps, and that is not good for anyone. It is not good for front-line staff and it is certainly not good for those folk who require care and support, or for their carers or their families.

This is the right thing to do. We never achieve perfection, but the way in which we are shaping this, with people at the heart of it, is the right thing to do. Again, I highlight the fact that, in terms of the co-design and the secondary legislation, we will consult all the way through in order to get this right. If we find that there are flaws in what we come up with in the secondary legislation, the fact that it is in secondary legislation makes it much easier to adapt. Some of the key frustrations that are out there are around about where the Parliament has set good legislation with good intention but there has been an implementation gap.

You may well seek an example, so I will give you one. The Social Care (Self-directed Support) (Scotland) Act 2013 is a good piece of legislation, which we will build on in the work that we are doing here, but some folk have used some aspects of that primary legislation to find loopholes in order not to deliver as per the spirit of the act. We need to change that, but it is not so easy to change something over a short period of time when it is set in stone in primary legislation. It is much easier to do that in secondary legislation. That is what the voices of lived experience want to see, rather than sometimes being stuck in a cul de sac in which the spirit of legislation is not being lived up to.

**Mark Griffin:** I will go back to a point that the convener led on, which was the scale of potential change to local government staff budgets and the services that they provide. Was there any consideration given to producing an impact assessment on local government when it came to the drafting of this legislation?

**Kevin Stewart:** Absolutely, as we work forward in all of this, we will continue to provide business

cases and impact assessments for scrutiny by all committees and by Parliament. We need to do that in the interest of openness and transparency as we move through the co-design process and we have to take cognisance of any impact on any part of the system at all.

However, as I said minutes ago, the bill as it stands has no direct impact on local authorities. There are a lot of myths going round about what may happen. Let me give you examples. You talked about transfer of staff. In the bill there is the ability to transfer staff, because care boards, as envisaged, will be the provider of last resort. If a care home or care service fell over, there would have to be the ability to transfer staff and assets in order to protect that service. However, nobody has suggested—certainly, I have not—the wholesale transfer of staff from local authorities to local care boards or to the national care service. As I said earlier, I see local authorities as being important delivery partners, which is why I want them at the table co-designing.

Equally, there has been a lot of talk of transferring assets. Again, that is not something that is necessary. It has to be looked at in the co-design, but some of the witnesses who have been at this committee and others have suggested that there will be the wholesale transfer of staff and assets including, I believe, electric cars. That is not as we envisage it, but we have to have the ability in the bill to ensure that there is a provider of last resort.

**Mark Griffin:** I appreciate that clarity. As you say, the witnesses we have been hearing from have had concerns about the impact, so it is helpful for you to confirm that any transfer of staff or assets is only essentially an act of last resort for a failure in service

**Kevin Stewart:** This has to be part of the co-design process. What we have ensure is that, if there is a need to be provider of last resort, we have the ability to transfer staff and assets. That may not necessarily be from local authorities, but the committee will understand the need for a local care board to be able to deal with emergency situations. I have explained the reasoning why that is in play in the bill. We can spell out that reasoning in more detail. We have to do it in order to protect people who may face difficult situations. This talk that we have already decided to transfer staff and assets wholesale is not the case.

**Miles Briggs:** Good morning. To go back to the previous answer, all the committees in the Parliament that are looking at the bill are hearing from the sector that there is a lot confusion. People seem to be in the dark about where this is going to go, and that is important.

Last week, Audit Scotland told the committee that such reforms should be based on a clear business case, realistic costings and an assessment of impact on the wider public sector. From the two committees that I sit on, it is evident that that is not known by those who are going to be tasked with delivering a national care service. Do you recognise that the witnesses who are coming to the committees do not know what you are expecting them to do? We are hearing today that a national care service is potentially not what they think it will be.

**Kevin Stewart:** I think that I should say exactly what I said at the FPA Committee. There has been a concentration on some aspects of what we are trying to do here and not on others. I said to the FPA Committee last week that what people need to do is to look at the suite of documents that we have produced—not just the bill and the financial memorandum but the policy memorandum and the other documents that were produced. That gives us a very clear idea of what we are aiming to achieve here.

11:00

Some people want answers to all of the questions now. However, if I was to answer all the questions now, giving my opinions, that would blow the entire concept of co-design out of the water. What I want is for stakeholders and the voices of lived experience to be at the table to help us to co-design the service.

As you can imagine, I have been watching the evidence sessions not only of this committee but of others too. Many of the witnesses have vested interests in terms of where power, accountability and resource lie at the moment. What would be good to see is a committee taking evidence from those folks who are receiving care and support, their carers and families and front-line staff.

I have spent the past 18 months or so listening to people about their experiences, and where they think we have done well and where we have gone wrong over the past two or three decades in terms of changes to care support. It is a duty on all of us not only to listen to those folks who have a vested interest—there is no doubt that they are important stakeholders—but to listen to people. That is why so much emphasis of the work that we have put in is not only to listen to COSLA, SOLACE, the Chartered Institute of Public Finance and Accountancy and others but to go and hear the views of people. That is why we have had numerous events not only during the course of the consultation but since. That is why we had the national care service forum in Perth the other week, which was extremely well attended.

I ask the committee to look at the responses that came out during the course of that national care service forum. I also appeal to you to listen to and hear from witnesses from disabled people's organisations, from third sector groups, such as Enable, and from people themselves about their experiences. You will then garner the reasoning why co-design is so important in order to get rid of the implementation gaps that have existed in previous changes that have been made.

**Miles Briggs:** Thanks for that. To be fair, I note that all the committee's witnesses have been positive about many aspects of the bill—for example, fair work, data sharing, ethical procurement and the need for a national improvement body. Local care boards could be developed to deliver that. Clinical care standards are something that I have always wanted. This is not about getting rid of everything that the Government has suggested; it is about trying to make it work.

No witnesses appear to support the transfer of roles, responsibilities or budgets away from local government to a new body. The direct impact on local authorities needs to be made clearer.

In the six years for which I have been an MSP I have never seen so many witnesses coming to Parliament expressing concerns, at this stage in the process of a bill. Given all that concern, and cross-party concerns, including from your party, would you be open to the bill being amended by Parliament in many ways to make it more in the spirit of co-design? Many people are expressing concern about that. The minister has been involved in previous legislation through which co-design has worked well—we have heard about that in relation to the Promise and to the ending homelessness together policy. Co-design needs to be delivered on the ground, so is there a chance to pause the process to try to get it right now?

**Kevin Stewart:** I said last week that I do not want to pause the bill: we need to move forward. People who are in receipt of care and support—carers and the voices of lived experience—want us to move more swiftly than we are moving on all this. Many of them would say that they want change yesterday; I understand that strength of feeling.

On amendments, Parliament decides on amendments and, obviously, the Government will lodge amendments as and when necessary.

The key element that some people do not like relates to co-design. In order for us to get it right we need the voices of lived experience at the table with others. Mr Briggs mentioned my experience as a minister, when I have brought together as many people as possible to reach consensus. With changes to homelessness regulation, we

managed to do the good work that we achieved because we had the voices of lived experience at the very heart of the process. I want to ensure that those voices are heard and that co-design is truly co-design. Obviously, parameters have to be set; people are realistic about these things. However, I want all stakeholders and the voices of lived experience to be involved, then we will end up with the best possible service.

I do not want a situation in which people are painting themselves into corners by saying that they are not going to play a part in the co-design process. That looks particularly bad for the folks who have experience of care; it looks to them as though, once again, certain sectors are not listening and are not willing to listen to their views.

**The Convener:** We have a number of questions to cover in the time that we have together. Therefore, I would appreciate members keeping their questions brief and the minister's answers also being brief. We might cover the answers to some questions in answers to others.

**Paul McLennan:** Good morning. Among the key things in the Feeley review were improved outcomes and a shifting of services towards prevention. For witnesses, as you have no doubt heard, the question is about why can we not amend the current system. Can you elaborate on why you think that a national care service will improve outcomes and shift services towards prevention? I am trying to wrap up my two questions into one.

We also heard about the integrated joint integration board model. What is your view on that? Could we build on that model, as we have heard from witnesses? The key thing is obviously that we improve outcomes and shift services towards prevention.

**Kevin Stewart:** There are a number of things in that. Oversight and accountability came out very clearly in Derek Feeley's review and recommendations, and in the work that we have done prior to, during and since the consultation. National oversight will be better in terms of sharing of good practice and innovation. Developments that take place in one part of the country are often not easy to export to other places.

The bill will also remove unwanted duplication and functions, and make best use of public funds.

I have come across no one who does not want high-quality national standards. That is a priority for folks with lived experience of care and their carers, and it is extremely important for front-line staff. It is very clear from everything that we have heard that people want national accountability—they want ministers to be accountable. Among the faces around this table and people around Parliament are many who write to me to ask me to

get involved in cases in their constituencies to do with social care. I have to say that I have no responsibility and no accountability, in that regard. I can set policy direction as a minister, but I am not accountable and do not deliver the services. People do not get that; they think that national accountability and national oversight are needed. In particular, people want high-quality national standards in order that we can end the postcode lottery of services.

Another aspect to consider is local accountability. It does not work well in some areas, so we need to tighten it. People need to know what to expect in delivery of services.

There is a huge opportunity to improve standards; we have different standards in different places. The change also gives us the opportunity to ensure fair work and fair terms and conditions, which is not the case at the moment. Terms and conditions and pay cause a great deal of grief not only in social care, but in social work. Without naming authorities—that would be a bit naughty of me—I point out that certain parts of the country are having real problems in recruiting social workers because other authorities nearby offer better terms and conditions and pay. There is an argument that that represents local flexibility, but there is also an argument that it leads to real difficulties in recruitment and retention in some areas, which means that there is diminution of services there. In respect of pay, conditions and fair work, the national service is the right way forward.

We have uplifted pay twice in one year in adult social care. That has not been easy for me or my officials because we are dealing with 1,200 disparate employers. We need to change that, as we move forward, in order to get it right.

Those are a few reasons why we need to move to national oversight. At the top of the list is high-quality national standards so that people know what level of service they can expect, no matter where they are in Scotland.

**Paul McLennan:** I am looking for you to touch on the preventative element, as well. That is an important matter that Feeley picked up.

**Kevin Stewart:** One of the key things will be that we move to more independence and autonomy for front-line staff. We see in parts of the country where independence and autonomy are given to front-line staff that there is better service delivery, less crisis, lower costs to the public purse and the human cost of getting it wrong is stopped.

There is a good example in my home city of Aberdeen, where the Granite Care Consortium has given its front-line care-at-home staff the ability to step up or step down care as folks' circumstances change. As you can imagine, care

is mostly stepped up, although some care is stepped down. Obviously, that happens only in consultation with the folks who are receiving the care, their families and their carers. However, that ability cuts out reassessment, which is bureaucratic and takes time, and it is much better for the individual because change happens much faster. Preventative measures are being used already that we need to see being used across the board. That is another reason for the changes.

**Annie Wells (Glasgow) (Con):** Good morning.

The Government agrees with the Accounts Commission that the bill's financial memorandum needs to be updated due to recent increases in inflation. Given the likely squeeze on public finances over the next few years, where do you believe the money for the reform will come from?

**Kevin Stewart:** The financial memorandum was written when inflation was much lower than it currently is, and when forecasts did not show what was about to hit us thanks to Trussonomics and other factors.

11:15

Of course, we will all be watching this week to see the Chancellor of the Exchequer's budget statement—whatever it is being called this time—which is likely, unfortunately, to lead to further squeezing of public services. I wish that the situation was different but, unfortunately, what will happen will be what the UK Government decides. I wish that we were making those decisions here. I hope that Ms Wells, Mr Briggs and others will be lobbying the chancellor hard to ensure that there are no further cuts to public services that will impact on people here.

What I said to the Finance and Public Administration Committee is that we will continue to update Parliament about the changes as they occur according to forecasts. That does not mean that we will change the financial memorandum, which was laid when the bill was laid. It also does not mean that we will not continue to do all the work that is required to ensure that we know exactly what the costs are as we move forward. That is why I said earlier that we will update business cases.

Future investment is always subject to the annual parliamentary budget and parliamentary budget scrutiny. We will obviously have to take into cognisance the financial hand that has been dealt to us by Westminster.

However, I come back to my earlier point: it might well be that the pace of change has to be incremental and we might have to take more time over certain aspects. That might involve phasing, as the cabinet secretary said at the weekend.

However, we cannot sit back and not change, because we know that a huge demographic change is about to happen: we know that the population is changing. We also know that care is changing. We need, as Mr McLennan rightly pointed out just minutes ago, to move to prevention rather than dealing with crisis. Therefore, no matter what financial cards we are dealt by the United Kingdom Government, we have to make changes for the good of the people of this country.

**Annie Wells:** The bill's financial memorandum anticipates that savings or efficiencies will be made through shared services. However, SOLACE has argued that it

“does not acknowledge the corresponding loss of economies of scale for local government.”

How does the Government respond to the concerns about the bill's financial implications for local authorities, in particular the smaller councils that are involved in the process?

**Kevin Stewart:** I think that there are huge opportunities with regard to shared services. In my experience of shared services in local government, fairly substantial savings have been made that have gone back into front-line services. Let us be honest—the national care service is all about delivery on the front line for people.

I will not go on at length, because I know that time is ticking, but I mentioned earlier that we have already said we will look at all aspects of what is proposed, including cost neutrality for local government. In order for us to get that right, we need local government to be at the table when it comes to co-design.

I am well aware of the many opportunities and challenges that exist here. Others have a lot of knowledge that they can bring to bear, too, and we are happy to listen to them and take on board their knowledge as we move forward.

**Miles Briggs:** It has been put to this committee and to the Social Justice and Social Security Committee that, following the pandemic, the workforce is tired and feels burned out. Could the creation of a national care service be a distraction from recovery in social care? Can the Government guarantee that we are not about to embark on a further period of disruption and potential underinvestment by local authorities? We have heard that many local authorities are viewing the national care service proposals as a reason not to invest in assets.

**Kevin Stewart:** What I would say to local authorities is that they still have responsibility for delivery. I trust local authorities to do what is right for the populations and the people they represent.

It would be particularly daft to stop delivery and to stop investment.

With regard to your question about front-line staff—I agree that the focus of front-line staff at the moment is on delivering for the people they care for and support daily—I will use not my words, but those of Mike Burns, who is the assistant chief officer at Glasgow City Council and the vice-convenor of Social Work Scotland. He told the Education, Children and Young People Committee that he agreed that change was needed. He said that there was little impact on front-line staff, that the focus of delivery at the moment was on the valuable and valued work that they do on a daily basis and that senior managers were beginning to consider the proposals.

I think that that is right. The main focus of front-line staff at the moment is on the delivery of care and services. I hope that we can get front-line staff involved in the co-design process, too. I recognise that we will have to be adept in doing everything that we can to allow them that opportunity. As far as the national care service is concerned, I have no evidence that any of what is proposed is having any impact on delivery.

**Miles Briggs:** The Social Justice and Social Security Committee was told by Unison that members of the workforce are being asked to take a leap of faith with the national care service. I want to put to you a question that has been put to us this morning: who would be the employer of anyone who was transferred?

**Kevin Stewart:** If anyone was transferred in relation to the aspects that I laid out earlier, the local care board would be the employer. I do not think that the setting up of the national care service is a leap of faith at all. I think that it is the greatest opportunity for the social care and social work workforce that there has been for many years. It gives us the opportunity for national sectoral bargaining, which does not currently exist. It gives us the opportunity to drive up pay and conditions and to put in place career pathways that many young folk in social care and social work do not think exist at the moment.

When change is proposed, we are always likely to get the negatives first. However, from a workforce point of view, the national care service probably represents the greatest opportunity that has existed for the profession for a very long time, if not ever.

**Miles Briggs:** I respect what you have said about some of the outcomes that you would like to be achieved, and I agree with many of those. However, can you understand the concerns of someone who is working as a carer today about the fact that you are suggesting that their employer will be the local care board, which does

not currently exist, about the disruption that that could present and about the uncertainty around their pension being transferred?

**Kevin Stewart:** Let me spell this out. I have not suggested that anyone's employer will be a local care board.

**Miles Briggs:** You just did.

**Kevin Stewart:** As I said earlier about the local government workforce, I do not envisage there being a huge transfer of staff from local authorities to local care boards. Obviously, there will be discussions about that in the co-design process, but I see no reason for that to happen—unless, of course, a local authority chooses not to deliver care any more, which I cannot see happening. I do not envisage the transfer of a huge number of staff from the third sector to local care boards, either. I want to be very clear about that.

I say to Mr Briggs and others that, as part of my job, I see it as being absolutely at the top of the agenda to listen to the voices of lived experience, but also to speak to front-line staff. I have been open with front-line staff about their ability to speak to me and officials directly, and I have gone out of my way to hear views. At a recent meeting of the cross-party group on social work, for example, I made it clear that social workers should be telling us what they need, what change they want to see and what would make their jobs better. That is the way that we intend to proceed and that is the way that we will continue to operate as we move forward on that front.

**The Convener:** We move to our colleagues who are joining us online, starting with questions from Marie McNair.

**Marie McNair:** Good morning, minister. Audit Scotland and other organisations have asked in their submissions how the bill is consistent with other Scottish Government priorities, such as compliance with the European Charter of Local Self-Government, community empowerment and the local governance review. Would you like to comment on that?

**Kevin Stewart:** I would say that the bill entirely fits in with the charter. I will write to the committee with all the details of how it does so. I have some details here that I cannot find at the moment, but I will write to the committee to show exactly how the bill fits in with the charter, if that suits you, convener.

**The Convener:** That would be super.

**Marie McNair:** That is helpful. I had been going to ask you to clarify the issue of staff transfers, about which concerns have been raised, but you have clearly addressed that. I really appreciate your clarity on that, which I think gives

reassurance to the 75,000 council staff members who have been mentioned.

The committee is committed to exploring the barriers to standing for local office. I think that it was Eddie Fraser from East Ayrshire Council who told the committee that the removal of social care from councils would influence whether people would be likely to stand in local elections. How do you feel about that? Can you expand on that?

**Kevin Stewart:** Some of the same things were said just before we moved to integration joint boards. It was said at that point that many folk might choose not to stand for local government. I have no evidence of that, and it would be difficult for me to judge the position in other parties. Even with those changes, from the perspective of my party in my neck of the woods, more people have come forward to stand for election. Of course, that means that there will be much more choice as we move forward.

I have no evidence that the removal of social care from councils would be a barrier to people standing for local office. The same things were said previously, and I have seen no change. In fact, the opposite is the case.

11:30

With regard to your previous question about the charter, I have found the relevant bit of my notes. As you can imagine, I have piles of documents in front of me. The national care service proposals are fully compatible with the articles of the European Charter of Local Self-Government. The charter clearly states that, when responsibility is allocated to another authority, the extent and nature of the tasks concerned and the requirements with regard to efficiency and economy should be weighed up. As the committee is well aware, the independent review of adult social care was clear about the need for a national care service, given the extent and nature of social care. I hope that that is helpful.

**Marie McNair:** Thank you, minister. I appreciate your clarity.

**The Convener:** Thank you for finding the relevant document. We move to questions from Willie Coffey.

**Willie Coffey:** Good morning, minister. I have to give you a chance to respond to the comments of our colleague from Unison who was on the first panel of witnesses. They said that you have your priorities all wrong, that you are creating a billion-pound quango and that you should withdraw your proposals and start again. I will give you an opportunity to respond to that.

**Kevin Stewart:** I disagree completely and utterly because we are not setting up a quango;

we are setting up a national care service for the good of the people of Scotland. I return to my earlier points around and about the huge opportunities that we have to get delivery right for the people of Scotland. The main reason for doing this is to ensure that we have a care system that is person centred and has human rights at its very heart. We need national high-quality standards, as I have said before.

We also need to sort out the accountability aspect. It has come out loud and clear from people that that is not right and that, in many cases, we are not serving them well. We need to deal with that.

From a union perspective—I declare an interest as a member of Unison—this is the greatest opportunity that there has ever been to get it right for the social care and social work professions, because of the opportunity for national sectoral bargaining to put right pay and conditions and, as I said previously, to create the right career pathways for folk. That will attract young people to the profession, which is not easy to do. One of the biggest takeaways that I have had from the young people in front-line social care and social work whom I have spoken to is that they want to see career pathways.

It has not yet been mentioned this morning, but this gives us the opportunity to embed ethical procurement in all that we do and to put fair work at the heart of it. I recognise that some people see negatives in what we are doing. There are always vested interests, but I ask that we balance that out with the needs of the people. I ask not only that we listen to the folks who are giving negative evidence—although it is not wholly negative, because almost everybody says that we need a national care service and that we need change—but that we look at the positives in all this and, in particular, listen to the voices of lived experience.

**Willie Coffey:** You mentioned vested interests and that, in our evidence sessions, we have hardly heard a single voice from a person who is receiving care or from those with lived experience, which is an omission that we need to look at. Can you assure the committee that, in shaping your bill and its proposals, you engaged with service users, people with lived experience and people who are on the front line of getting and receiving care?

**Kevin Stewart:** Absolutely, Mr Coffey. I have spent a huge chunk of the past 18 months listening to people and what they want to be changed. Some of the stories that I and my officials have heard are particularly galling; we have heard about problems that have reached crisis point because people have not been listened to at the right time, which is wrong. That is my point about the implementation gaps that have developed when changes have taken place

previously. If there is one thing that I am absolutely adamant about, it is that we do as much as possible to get rid of those implementation gaps, because we cannot afford the amount of money that we are spending on crisis and we cannot afford the human cost of not getting it right earlier. That is why national high-quality standards are so important in all this.

We will continue to have local accountability, local flexibility and local design of services, but that must match up to national high-quality standards. We cannot afford postcode lotteries. Mr Coffey represents East Ayrshire where care delivery is very good, but I want everyone across the country to be able to expect that level of service and beyond. There are worries in certain quarters that, in all that we are doing, there might be a move backwards in certain places. That will not be the case. We must drive up the quality standard of care delivery right across the board.

**Willie Coffey:** That brings me to my final question on the matter, which is about consistency. You might have heard me asking the previous panel of witnesses how we get a consistent approach right across Scotland without a national approach. I do not think that they were totally clear in what their views were on that. I am really concerned about it, and I appreciate that it is at the heart of the bill. How do we ensure that we get a nationally consistent level of quality in services but retain the existing services—you mentioned East Ayrshire—that are already delivering a first-class service? How do we ensure that we do both?

**Kevin Stewart:** The national high-quality standards will go a long way in reaching consistency. Beyond that, we have other pieces of work going on with voices of lived experience and stakeholders around and about the charter of rights and responsibilities. It is some of the earliest co-design work that we are doing; I was involved in discussions on that last week that, for me, were very exciting.

We must ensure that we get the right design and that we monitor as we build on the principles of the bill, ensuring that we get the secondary legislation right and removing the implementation gaps that have existed before.

Most important in all this is that, in order to change the culture that exists in certain places, we have to continue to listen to the voices of lived experience and to listen to and trust front-line staff, because a lot of what has gone on over recent years has eroded the autonomy, independence and flexibility that front-line staff have in certain places. When front-line staff have greater freedom, autonomy and flexibility, there is usually better service delivery for people. People have to be at the very heart of all this. Even once the bill is

passed and the secondary legislation and regulations are in place after co-design, we must continue to listen all the way through so that we continuously improve.

**The Convener:** That concludes our questions. Thank you, minister, for coming in. It has been helpful and illuminating to hear what you have had to say.

**Kevin Stewart:** Thank you for giving me the opportunity.

**The Convener:** I suspend the meeting briefly for our visitors to leave the room.

11:40

*Meeting suspended.*



11:41

*On resuming—*

## **Subordinate Legislation**

### **Town and Country Planning (Miscellaneous Amendment) (Scotland) Regulations 2022 (SSI 2022/286)**

**The Convener:** Item 3 is consideration of a negative instrument. Members will note that a letter from the Minister for Public Finance, Planning and Community Wealth in response to a query that was raised by the Parliament's legal team is included with the papers.

As this is a negative instrument, there is no requirement for the committee to make any recommendations. As members have no comments on the instrument, are we agreed that we do not wish to make any recommendations in relation to it?

**Members** *indicated agreement.*

**The Convener:** At the start of the meeting, we agreed to take the next two items in private. As we have no more public business, I close the public part of the meeting.

11:41

*Meeting continued in private until 12:31.*



This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

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Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

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