

**NATIONAL CARE SERVICE (SCOTLAND) BILL STAGE 2 – CALL FOR VIEWS
SUPPLEMENTARY SUBMISSION TO THE HEALTH, SOCIAL CARE AND SPORT
COMMITTEE OF THE SCOTTISH PARLIAMENT**

**WHAT HAS HAPPENED TO STRATEGIC INVESTMENT
IN SOCIAL CARE AND SOCIAL WORK IN SCOTLAND?**

SUMMARY

Public sector finances in Scotland as in the rest of the UK are under severe strain after fourteen years of austerity and are unlikely to see improvement in the short to medium term. Professor David Bell's recent submission¹ to the Health, Social Care and Sport Committee on the *Finances of the Integrated Joint Boards* states that "the Scottish Government [is] facing its most extreme financial crisis since devolution in 1999".

The deteriorating fiscal context must raise profound questions about the wisdom of continuing with the work on the National Care Service, both in terms of better alternative uses of that money and also because the NCS cannot be delivered successfully without the parallel investment in social care and social work that has been explicitly excluded from the Bill's original and revised Financial Memoranda.

In this paper we first discuss further the close relationship between the NCS principles and intended benefits, and the wider social care investments without which such goals cannot be achieved. We then briefly review on-going progress with key issues that were the subject of IRASC recommendations in Derek Feeley's 2021 *Independent Review of Adult Social Care* report: Fair Work investment in the pay and conditions of social care workers, funding the impact of demographic changes, eligibility reform, charging for care, prevention and early intervention, investment in social work services, ethical commissioning, and improving performance and management information – all of which have funding implications.

In 2021 the SNP Manifesto and subsequent *Programme for Government* promised significant investment in social care of 25% or over £800M by 2026-27, subsequently increased to £840M. Earlier this year it became clear that all the £840M, and more in cash terms, had been spent on the Fair Work agenda. We discuss this further in a section of the paper on how the £840M investment commitment has been spent, followed by an analysis of Fair Work issues. Unfortunately, paying £12 per hour from 1 April 2024 for social care purchased by local authorities is too low to make much impact on the current recruitment and retention crisis.

Social Work Scotland's response to the Health, Social Care and Sport Committee's previous call for views on the National Care Service Bill in September 2022 ended with this final paragraph:

The immediate task, surely, is to fix the problems as they are today, including care staff recruitment and retention, alongside developing the increased investment in early intervention

¹ <https://www.parliament.scot/chamber-and-committees/committees/current-and-previous-committees/session-6-health-social-care-and-sport-committee/correspondence/2024/david-bell-prebudget-scrutiny-submission>

and prevention work that is necessary for the future sustainability of a National Care Service, however delivered. That will mean an honest appraisal by all partners of why the preventative strategies in the Christie Report from 2011 have proved so difficult to implement, without double running costs to fund the acute services while preventative services are built up and begin to impact over time to reduce future acute service costs. If a new National Care Service cannot be fully funded, then the Scottish Government should agree to the last recommendation in the Feeley Report to consider and consult on options for raising new revenues to increase investment in social care.

Two years of protracted debate on the Bill has not changed these priorities for spend-to-save investment in a coherent, partnership-based programme of work on prevention and early intervention strategies, approaches and services, based on evidence of ‘what works’, and led by an inter-agency staff-team able to assist with developing the national and local infrastructure and implementation.

Social Work, Social Care, and Community Health require sustained investment to arrest an ongoing deterioration in services and support, and to equip them for challenges associated with demography, a changing labour market, and technology. There is now no such investment programme, and nor is one likely in the current fiscal environment.

Earlier this year, our letter² to the Parliament’s Finance and Public Administration Committee included this statement

Our concern, articulated in our original response to Parliament’s call for views, is whether the money allocated to the NCS would not achieve greater value and impact if invested in services.

Social Work Scotland letter to the Convener of FPAC Committee, 23 January 2024

In the absence of the further work that Derek Feeley considered necessary to expand available funding, it makes little sense to spend available funds on organisational change – IRASC Recommendation 53 has not been implemented: *Careful consideration to options for raising new revenues to increase investment in adult social care support*. The Feeley Report also raised concerns about the “value leakage” of some private care sector profits that otherwise could have been re-invested³. The STUC 2022 report⁴ on *Profiting from Care* provides further reasons to add value leakage to any analysis of funding options, including taxation.

The changed fiscal environment provides overwhelming and sufficient reason to halt and defer the National Care Service, and use all available funds to support front-line services, and a funded, evidence-based prevention programme.

² <https://www.parliament.scot/chamber-and-committees/committees/current-and-previous-committees/session-6-finance-and-public-administration-committee/correspondence/2024/national-care-service-scotland-bill-financial-memorandum-letter-of-23-january-2024>

³ “Our principal concern is not with profit itself, which plays an important function in any market economy, but with what we have come to think of as “leakage” from the care system in Scotland. Significant sums leave the care economy, some of which could be better used to raise standards of care and terms and conditions for staff. We therefore recommend that the National Care Service should take these concerns into account as part of its development of a new approach to ethical and collaborative commissioning” IRASC Report, page 76.

⁴ <https://www.stuc.org.uk/research/>

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1. Introduction

Social work and social care services in Scotland, as in all other parts of the UK, are in continued and protracted crises of rising demand and under-funding of need. A National Care Service for Scotland (NCS) will not itself solve or reduce those problems, unless there is a strategic investment programme alongside the structural changes, as was clearly recognised in the 2021 *Report of the Independent Review of Adult Social Care*, chaired by Derek Feeley.

As matters stand today, the prospects of such an investment programme are slight.

The 2021 SNP Manifesto and subsequent Programme for Government promised significant investment in social care of 25% or over £800M by 2026-27, subsequently increased to £840M. At the time it was not clear whether this sum was also to fund the organisational changes needed to establish a National Care Service. When the original version of the NCS Bill Financial Memorandum (FM) was published in June 2022 it **explicitly excluded the social care improvement programme from its costings**, as does the revised FM issued on 7 December 2023⁵:

13 [...] In order to focus only on the impact of the Bill, the estimates provided here do not include the effect on the NCS of the following Scottish Government commitments:

- To **increase pay and improve terms and conditions for adult social care staff** in the third and private sectors, including establishing appropriate channels for workforce and trade union representation
- To bring **Free Personal & Nursing Care** rates in line with National Care Home Contract rates
- To **remove charging for non-residential care**
- To **increase investment in social work services**
- To increase provision of services focusing on **early intervention and prevention**
- To invest in **data and digital solutions** to improve social care support.

14. Overall the Government has committed to increase public investment in social care by 25% over this Parliamentary session (2021-26). [*Emphases added*]

⁵ <https://www.parliament.scot/chamber-and-committees/committees/current-and-previous-committees/session-6-finance-and-public-administration-committee/correspondence/2023/national-care-service-scotland-bill-financial-memorandum-letter-of-11-december-2023>

The costs of **ethical commissioning** are also excluded later in the FM. As Social Work Scotland and others have pointed out in previous submissions, the list of exclusions does not mention some key Feeley recommendations: building in annual funding for **demographic change**, reviewing **eligibility criteria**, and **improving performance and management information**. Feeley also expressed concerns about increasing **unmet need**.

The Government's *Programme Business Case for the National Care Service* (December 2023)⁶ acknowledges that "the Scottish Government is aiming to implement the recommendations from the IRASC through ongoing social care reforms and the creation of the NCS" [section 3.6]. In a later section [3.8] the Business Case argues that the NCS will **enable the wider social care investments** "to go further and provide high quality care for more people than otherwise would be the case". It also notes:

It is important to note that **provisions for such wider reform** are not matched by costs set out in the financial memorandum. Costs for increasing provision will instead be covered in individual policy costings, for the wider reforms. [*Emphases added*]

That has not happened – to our knowledge, no such costings have been published, except for Fair Work additions to local government finance settlements.

Marie Todd's letter of 21 February 2024 to the F&PAC Convener⁷ said:

The Financial Memorandum and Business Case focus solely on the benefits and reform from the NCS Programme and Bill. However, **there are wider social care reforms committed to**, such as reforming eligibility, whereby we would expect early intervention and prevention measures to derive further benefits, particularly to the unmet need and unpaid carers groups. We'd anticipate that the creation of the NCS could support and maximise the benefits of this wider social care reform. [page 5, *emphasis added*]

However, the relationship between the NCS and "the wider social care investments" is much closer than this position suggests. First, the **National Care Service principles** are set out on the first page of the Bill and are not cost-neutral. Social care as an **investment in society**, the need for NCS services to be **financially stable**, centred around **early intervention and prevention**, and for the NCS to be a **fair work** exemplar, all have either recurring cost implications, or need significant medium-term investment to provide the prevention services that can reduce longer-term costs alongside better outcomes. That fact is not significantly changed by the proposed Stage 2 amendments.

Secondly, **wider social work and care investment is a necessary condition for the success of the National Care Service**. The benefits set out in all the policy papers associated with Stages 1 and 2 of the Bill cannot be realised by the institutional establishment of the NCS alone, but only when combined with the programme of investment in prevention and other services to better meet needs and thus realise human rights.

To illustrate this fact, one of the main objectives of the NCs is to deliver consistency in access and availability of social care services across Scotland. Indeed, the new Stage 2 Policy Memorandum mentions *consistent* or *consistency* 79 times, more than twice as much as improving *outcomes* for people who use services or their carers, mentioned 27 times. But the means available to the NCS to achieve consistency are limited, unless the **funding of local services** was itself equitable in respect of population need, services were provided proportionately to such needs, and assessment for such services, where needed, was similarly resourced and undertaken, to the same **eligibility criteria** (formal or informal) and **standards**. None of these pre-conditions are in place. Initially, that means progressing workstreams on eligibility reform, and also seriously reviewing the "**grant aided**

⁶ Also attached to the above Ministerial letter of 11 December 2023

⁷ <https://www.parliament.scot/chamber-and-committees/committees/current-and-previous-committees/session-6-finance-and-public-administration-committee/correspondence/2024/national-care-service-scotland-bill-financial-memorandum-letter-of-21-february-2024>

expenditure” formulae used for local authority funding and which have not changed significantly for the social work and care GAE treatments since the 1990s.

The failure to set out an integrated and costed social care and social work improvement programme, alongside the finances for the NCS, deprives MSPs, the public and stakeholders, of the information they need to discuss priorities in an ongoing and extended period of public expenditure austerity. We and they are only seeing half of the picture.

2. How the £840M investment commitment has been spent

If the total investment funding for the wider social care reforms⁸ was the original £840M commitment then this seems to have been spent entirely on Fair Work pay increases for social care workers, as Richard McCallum⁹ explained to the Finance and Public Administration Committee on 25 January 2024:

In the first three years of this session of Parliament, we have already seen an increase of more than £1 billion in cash terms, against that figure of £840 million. We can translate that into real terms, but that probably shows that, in cash terms, we are well above the increase of £840 million that we had projected. **That reflects the investment that has been made in social care staff—the increases to pay in the past couple of years and the forthcoming increase in hourly pay from £10.90 to £12 in 2024-25.** Therefore, in cash terms, we are running well ahead of the figure of £840 million, but we can translate that into real terms and give you that information alongside the cash-terms figure. *[Emphasis added]*
 [Scottish Parliament Official Report, Finance & Public Administration Committee, 25 January 2024]

Subsequently, Marie Todd’s letter of 21 February 2024 provided the figures in cash and real terms: In our discussions on 25 January, the Committee specifically asked about the Scottish Government’s wider commitment to increase funding for social care by 25% (£840 million) over this Parliament Session (which is not a cost of the Bill). I committed to providing you with the breakdown in real terms, (in tandem with the original cash terms estimates for comparative purposes) and this is provided in Annex A in Tables 4 and 5.

We have combined these two tables below:

Combined Scottish Government tables on “investment in Social Care”

	Table 4			Table 5		
	In 2021-22 prices (£ millions)			In cash terms (£ millions)		
	Total SG spend	Additional	Cumulative	Total SG spend	Additional	Cumulative
2021/22	395			395		
2022/23	999	604	604	1,067	672	672
2023/24	1,058	59	663	1,199	132	804
2024/25	1,229	171	834	1,416	217	1,021

Source: Annex A in letter from Minister for Social Care, Mental Wellbeing and Sport to Convener, Finance and Public Administration Committee, Scottish Parliament, 21.2.24.

These figures confirm that the investment is “well ahead of the figure of £840 million” in cash terms (Table 5), and already pretty close to the £840M figure in real terms (Table 4). The base for the commitment to increase investment by 25% was never very clear; if the £840M commitment

⁸ It should be noted that these were mainly for **Adult Social Care**. If the NCS scope is expanded to social work and care services for **Children and Families**, and the **Justice system**, then other commitments would also need to be examined, such as those for **child poverty**, or **addictions**, or **rehabilitation of offenders**.

⁹ Director of Health and Social Care Finance, Digital and Governance, Scottish Government. See Official report. See Official Report, col 12: <https://www.parliament.scot/chamber-and-committees/official-report/search-what-was-said-in-parliament/FPA-25-01-2024?meeting=15673>

represented a 25% increase in cash terms, then the base figure would have been four times that amount, in which case the base would be £3,360M. That’s fairly close to actual local authority expenditure¹⁰ on *adult* social care (net of client receipts) of some £3,770M in 2021-22 (a figure not available at the time), so £840M might have been the best estimate available when the commitment to a 25% increase was made in 2021.

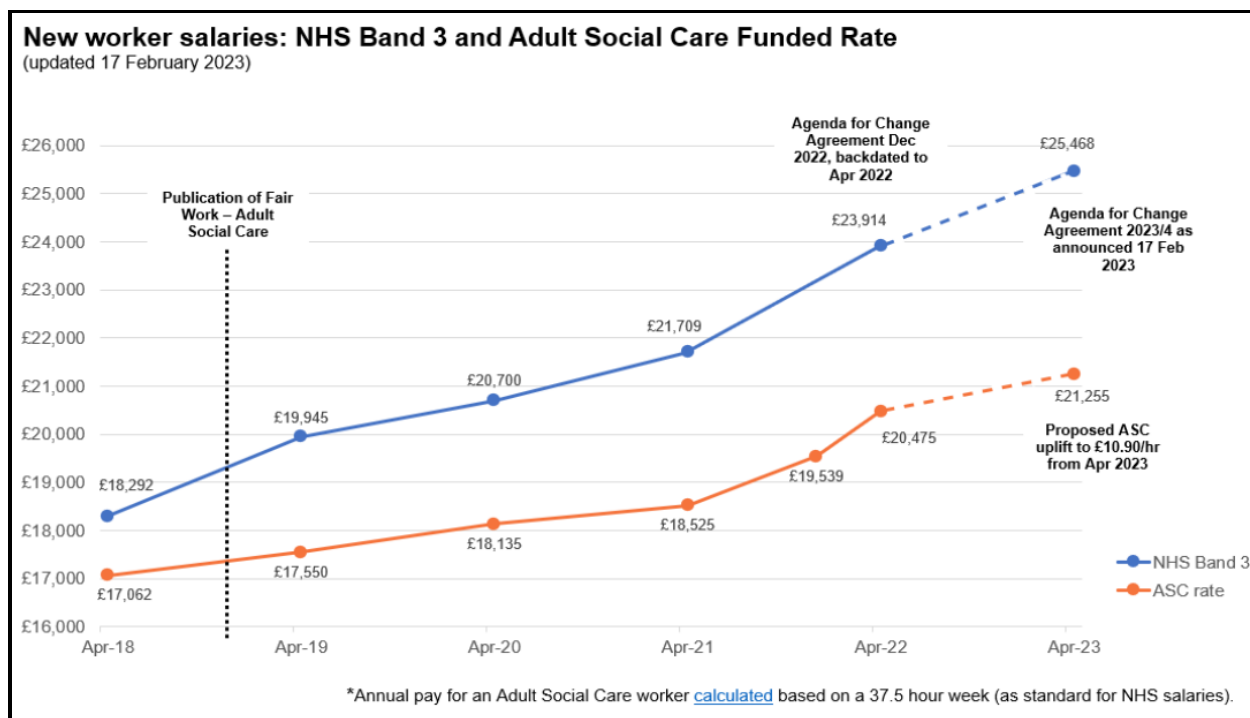
We presume the figures in the tables exclude the £38M budget line to help improve future terms and conditions for social care workers employed in the private sector, as most are, which was removed in September 2023; this is currently the subject of an ongoing STUC campaign¹¹.

Mr MacCullum’s statement did not quite say that all of the promised investment has gone on Fair Work measures to increase social care pay levels, only that the actual spending on Fair Work has *reflected* that investment. Nevertheless, his statement, and the figures in the Annex tables support that conclusion.

We consider Fair Work first in attempting to establish a position statement on progress to date with the “Scottish Government commitments” excluded from the NCS Bill FM.

3. Fair Work in social care

The information discussed so far implies that the Scottish Government is currently funding Fair Work in social care at £1.416 billion for 2024-25, at a minimum hourly rate of £12.00 per hour. That is a significant sum, but one that needs to be contextualised, for example by comparison to the cost of the *Agenda for Change* uplifts for comparable NHS nursing staff in Scotland– see CCPS graph below, showing widening disparities in gross annual salaries.



Source: Coalition of Care and Support Providers Scotland, February 2023¹²

In the table below, we also compare the Fair Work hourly rates for Scottish social care workers with the UK Government National Living Wage and the Low Wage Foundation’s Real Living Wage:

¹⁰ Source: Excel workbook for “Social Work” at: <https://www.gov.scot/publications/scottish-local-government-finance-statistics-slgfs-2021-22-workbooks/>

¹¹ <https://www.stuc.org.uk/news/news/social-care-workers-demand-return-of-missing-millions/>; <https://www.megaphone.org.uk/petitions/pay-care-sector-workers-their-missing-millions>

¹² <https://www.ccpscotland.org/campaign/>

Fair Work hourly rates compared with National Living Wage and Real Living Wage

	SG Fair Work		UK Govt NLW	Amount SG FW above NLW		LWF RLW	Amount SG FW above RLW	
2018-19	£8.75		£7.83	£0.92		£8.75	£0.00	
2019-20	£9.00		£8.21	£0.79		£9.00	£0.00	
2020-21	£9.30		£8.72	£0.58		£9.30	£0.00	
2021-22	£9.50	£9.67 ¹³	£8.91	£0.59	£0.76	£9.50	£0.00	£0.17
from 1.12.21	£10.02							
2022-23	£10.50		£9.50	£1.00		£9.90	£0.60	
2023-24	£10.90		£10.42	£0.48		£10.90	£0.00	
2024-25	£12.00		£11.44	£0.56		£12.00	£0.00	

Scottish Government Fair work uplifts for social care workers have tracked the Real Living Wage uplifts recommended, except for the additional increase announced in October 2022, and which we understand was implemented for the last four months of 2021-22, and for the following year, 2022-23, when the Fair Work uplifts were a little higher. In that year, Fair Work was a full £1 per hour higher than the UK Government's National Living Wage: in the current year Fair Work is higher by just 56 pence per hour. **These differentials need to be significantly higher if Fair Wage is to impact significantly on the current recruitment and retention crisis in social care.**

The table below compares the Fair Work uplift in hourly pay rates with Consumer Price Index inflation

Fair work uplifts compared to inflation¹⁴

	Social care workers, FW hourly rates	% increase	Inflation CPI
2021-22	£9.67	4.0%	4.0%
2022-23	£10.50	8.5%	10.0%
2023-24	£10.90	3.8%	5.7%
2024-25	£12.00	10.1%	2.5%

In the last four years we have: one uplift the same as inflation, then two years below inflation, then the current year above forecast inflation. We calculate that the cumulative effect of Fair Work uplifts is slightly less than full inflation uplifts, had these been available. So in effect, the £1.4 billion that the Scottish Government is spending on Fair Work in 2024-25, according to its written evidence to the Parliament's Finance and Public Administration Committee, **has simply maintained social care workers' wages in real terms.** (By contrast the better paid local government social work and care workers had reducing real wages over this period).

We return to Marie Todd's Ministerial letter to the Finance and Public Administration Committee of 21 February 2024, which stated:

The recent uplifts of pay for adult social care workers [to] £10.90ph in 2023 - 24 and the anticipated £12ph in 2024 - 25 are intended to help with the recruitment and retention crisis in

¹³ We have calculated this mean uplift for 2021-22 on the assumptions that £9.50 applied for the first 8 months of the financial year, and £10.02 for the final four months.

¹⁴ We have used the latest available estimates for 2023-24 outturn CPI inflation (Office for National Statistics, 14.8.24: <https://www.ons.gov.uk/economy/inflationandpriceindices/datasets/consumerpriceindices>), and for 2024-25 the average of new independent CPI forecasts reported by HM Treasury on 21.8.24: <https://www.gov.uk/government/collections/data-forecasts>)

the adult social care sector. This pay uplift will also be extended to those providing direct care to **children and young people** in commissioned services for the first time. [*Emphasis added*]

Social Work Scotland very much supports the extension beyond adult social care¹⁵. However, as noted, the impact of £12 per hour will not resolve the recruitment and retention crisis, a fact reinforced by recent academic research commissioned by the Scottish Government¹⁶:

[...] the minimum wage for all workers aged 21 and over (i.e., National Living Wage) also increased in April 2024 to £11.44 per hour. This reduces the relative increase in pay due to a rise in the ASC [Adult Social Care] wage floor and will likely reduce the impact of the ASC pay increase on ASC employment. Additionally, non-ASC employers that compete for the same workforce (e.g. hospitality and retail establishments), could respond to the new ASC minimum wage floor by increasing their wages above the new NLW. This will similarly reduce the relative increase in pay due to the rise in the ASC wage floor. [page 2¹⁷]

To make a difference to recruitment and retention, social care workers would need to be paid considerably above alternative employment in retail and hospitality, and progress made with other measures to improve terms and conditions and the general social status of this essential work. The STUC¹⁸, and public sector trade unions¹⁹, have been calling for a pay uplift to £15 per hour for some time, and a joint letter to the First Minister from more than 100 voluntary organisations²⁰, in November 2023 called for rates above £12 per hour then announced.

Audit Scotland, in its recent report on the finance and performance of Integration Joint Boards, warned “*the workforce feel undervalued in the system and there are unprecedented numbers of vacancies [...] Without urgent progress on the fair working agenda nationally it is likely that the risks to the sustainability of the sector will deepen*”²¹.

We ask the Scottish Government to set out its calculations on the costs of moving to £15 per hour, so that the costs²² and benefits of that priority can be discussed alongside other equally compelling priorities for public expenditure that cannot currently fund them all.

Concerns have also been raised in the Feeley Report and by the STUC²³, and other organisations, about the “**value leakage**” involved in dependence on private care companies making profits for owners and shareholders, money that it is argued could be reinvested in care. Open book commissioning runs up against commercial confidentiality, so profit rates remain obscure.

¹⁵ Workers in scope are in registered care and support services, and also Personal Assistants. Further work is needed to establish (a) the impact on care staff in services commissioned for community justice purposes, and (b) the extent of commissioned social care services that are themselves not regulated.

¹⁶ Florin Vadean, Hansel Teo & Stephen Allan (2024) *Assessing the Impact of an Increase in Pay on Adult Social Care Labour Supply in Scotland*. Scottish Government, May 2024, available at:

<https://www.gov.scot/publications/assessing-impact-increase-pay-adult-social-care-labour-supply-scotland/>

¹⁷ The researchers make these remarks because the impact modelling “assumes that wages in all other sectors remain unchanged”, whereas in reality that is not the case. Their modelling only concerned Adult Social Care.

¹⁸ <https://www.stuc.org.uk/campaigns-fair-care/>

¹⁹ <https://unison-scotland.org/local-government-pay-campaign-2024/>; <https://www.unitetheunion.org/news-events/news/2023/october/unite-members-vote-to-accept-cosla-pay-offer>

²⁰ <https://healthandcare.scot/stories/3646/health-social-care-wages-budget>. The joint letter to the First Minister of November 2023 called for increased above the £12 per hour.

²¹ Main report, 25.7.24, para 115: <https://audit.scot/publications/integration-joint-boards-finance-and-performance-2024>

²² For various reasons it is not possible to produce an accurate costing for £15 per hour from the data in the Scottish Government table shown above.

²³ STUC 2022 *Profiting from Care: Why Scotland can't afford privatised social care*. Available at:

<https://www.stuc.org.uk/campaigns-fair-care/#:~:text=Our%20research%20%E2%80%9CProfiting%20from%20Care,the%20not%20for%20profit%20sector.>

Movement to not-for-profit providers would need to be gradual, but no strategy for this appears to be in place.

4. Funding demographic change

Demographic change and poverty remain key drivers of increasing need for social work and care services. The Scottish Government's 2018 *Health and Social Care Medium Term Financial Framework*²⁴ acknowledged the financial impacts of demographic pressures from an aging population, and also from the improved longevity for people at all ages with learning or physical disabilities, and estimated that this would cost an additional 3.5% per year in real terms for adult social care, with a further 0.5% increase per year for above inflation price increases²⁵.

However, demography funding increases for social care have not been implemented in the annual Local Government Finance Settlements. In 2021 the Feeley Report (Independent Review of Adult Social Care) recommended "**robustly factoring in demographic change in future planning for adult social care**" (Rec. 53), a recommendation not mentioned in the Scottish Government's subsequent NCS Consultation paper. The Feeley Report also used the same English research as the 2018 H&SC Medium Term Financial Framework: "a reasonable starting point for projections is a 3.5% p.a. real increase in social care expenditure every year to 2035 in Scotland, but more specific Scottish projections will be vital in the future".

In order to obtain such Scottish projections, the Scottish Government in September 2023 tendered for research to "**determine Scotland's need and unmet need for adult social care support**".

The proposed study will provide clear insights on the scale and nature of need and unmet need for adult social care support, including a range of estimates for current need and unmet need and a projection of how this will change in future. The study will also provide estimates of the costs of meeting adult social care support needs and the workforce required to deliver this, as well as an assessment of the potential for reducing adult social care support costs through increased investment in prevention and early intervention²⁶.

The tender was cancelled in January 2024 because, we understand, no-one replied by the closing date of 01/11/2023, or subsequently. Certainly, population needs, future funding requirements, current unmet needs, and workforce planning are all connected. But asking researchers to deliver on all of these at the same time is to request a far too daunting a set of research outputs. Social Work Scotland is happy to work with the Scottish Government in breaking down the research tasks. These will also need to include poverty and other drivers of social work services for children and families, and the increase in justice social work needed to support more community disposals as a more effective means of preventing reoffending for suitable offenders than prison.

Meanwhile, annual uplifts in social care funding are absolutely essential to meeting demographic pressures and to halt further growth in unmet need. That seems unlikely currently given the public sector fiscal crisis, and will not be resolved by the creation of a national care service. More much work is needed on how to pivot towards prevention.

²⁴ <https://www.gov.scot/publications/scottish-government-medium-term-health-social-care-financial-framework/>

²⁵ These estimates come from ongoing academic work in England, funded for many years by the UK Government, and currently undertaken by the Care Policy and Evaluation Centre at the London School of Economics. Latest publication (2020) is available at: <https://www.lse.ac.uk/cpec/assets/documents/cpec-working-paper-7.pdf>

²⁶ https://www.publiccontractsscotland.gov.uk/search/show/search_view.aspx?ID=SEP489152. Further information was made available on request in the form of a 35-page paper which included a brief literature review of existing research on population need for social care, and defining and measuring unmet. In itself, that paper is very helpful and worthy of publication by the Scottish Government.

5. Eligibility reform

Eligibility criteria have tightened over time, largely in response to increased demand unmatched by increased funding, but also because funding has tended not to be updated for the full effects of inflation – some of the latter has been absorbed by the value of public sector wages and salaries falling in real terms. Eligibility criteria can be tightened by (a) formally increasing the threshold levels for care services; but probably more common has been: (b) ceasing to provide preventative support for people whose needs fall below those thresholds, and (c) by staff having to take a more restrictive view as to the severity of the needs of people considered to fit the various categories of eligible need.

The Feeley Report (IRASC) recommended the **reform or abolition of eligibility criteria** for adult social care. In March 2021, the “joint statement of intent” by the Scottish Government and COSLA on the Independent Review of Adult Social Care included the commitment to the “overhaul of the current mechanism of eligibility criteria to ensure an approach to social care support that is based on human rights and needs”²⁷ and the Scottish Government’s NCS consultation paper²⁸ in August 2021 included the statement that:

We will remove eligibility criteria in their current form by moving away from a focus on risk and instead focusing on enabling people to access the care and support that they need to lead a full life.

Little of the development work with COSLA on this issue is yet in the public domain. Following an online conference organised by the Scottish Government in June 2022, a short-life working group was set up to act as a steering group for commissioned research from April to July 2023. According to the research report by Emma Miller (of Strathclyde University), published by the SG in February 2024²⁹, the “commission was undertaken with the understanding that the purpose was not to create an alternative mechanism, but to explore relevant developments and innovations in the field of adult social care eligibility criteria in the UK”.

This research provides very useful qualitative analysis of the issues, including putting **the lack of funding** centre-stage, together with **unmet need** and how to “define, identify, record and respond to it” (page 32). Among other things, the report argued that:

“Investment in building culture through shared learning and understandings of practice can help to avoid further failure demand and improve effectiveness (rather than an over emphasis on mechanisms and tools to promote efficiency). [page 33]

[...] There is inequity, inconsistency and lack of transparency built into and throughout the system – no mechanism can be expected to solve all of that. [page 34]

If mechanisms were the answer, then we would already have equity, consistency and transparency. Solutions need to pay attention to both structure and culture in social care [page 36]

We are sympathetic to these conclusions, and to the key findings set out for challenges and strategies on pages 36-37 of the report. Nevertheless, current eligibility criteria may or may not deliver equity *within* local authority areas, but would be unlikely to do so *between* different local authorities because even for adult social care their eligibility criteria vary between councils. Moreover, equity presupposes that similar levels of population need for social work and social care and support services across Scotland elicit similar levels of funding. There is no reason to believe that the **Grant Aided Expenditure system** underpinning Scottish Government funding to local authority delivers the intended financial equity, as it has not been reviewed now for nearly 20 years.

²⁷ <https://webarchive.nrsotland.gov.uk/20220722152932/https://www.gov.scot/publications/adult-social-care--independent-review-joint-statement-of-intent/>

²⁸ <https://www.gov.scot/publications/national-care-service-scotland-consultation/>

²⁹ <https://www.gov.scot/publications/exploring-innovations-developments-adult-social-care-eligibility-criteria/>

The revised NCS Bill Policy Memorandum for Stage 2 states that further work is being done with partners on whether the reformed IJBs will be funded directly. **But there is no mention of reviewing the social work and care funding formulae to ensure they reflect the best available modelling techniques and data for population needs assessments.**

The research on eligibility mentions “pilot initiatives where workers were using their professional judgement in work within small budget limits” (page 27). While the abolition of eligibility criteria has many persuasive advocates, Scottish Government Ministers and civil servants, local authority elected members and senior managers, IJB Boards and Chief Officers, **all need robust evidence that ending rationing by eligibility criteria will not crash the available care budgets.** That would need much better evidence than we have from areas elsewhere in the UK where this has been tried, but also carefully set up and monitored **pilot schemes in Scotland** to establish that better outcomes for more people can be really be achieved with the same budgets that eligibility criteria largely exist to protect, and moreover are also capable of roll-out to different communities across Scotland. We recommend that the new Access to Social Care group, set up by the Scottish Government, addresses these issues.

6. Charging for care

The Scottish Government is committed to abolishing non-residential charges for social care and to reduce charges for residential care by raising the Free Personal and Nursing Care payments up to the level of the care element in the standard rates for residential and nursing care under the National Care Home Contract. These charges are means-tested; people who have been assessed as needing care will not be charged for that care if their income and savings are below certain thresholds. In addition, councils cannot charge for personal care provided in a person’s home, or for personal or nursing care in a care home up to amounts currently being updated each year³⁰.

The Feeley Review (IRASC) found evidence that charges for social care reduce access to services. They are certainly inequitable in comparison with NHS services being (largely) ‘free at the point of delivery’, an anomaly that goes back to the 1948 National Assistance Act.

Information about the potential costs of these commitments does not appear to be in the public domain. Local authorities recorded income from social care charges of some £302 million in 2022-23, the latest year for which data is available from the local authority financial returns³¹, albeit that there are significant data quality issues³² about its use.

Income from social care charging, Scotland 2022-23

	Children & families	Adults	Total
	£M	£M	£M
Accommodation-based services			
Income from Client charges	0.2	222.6	222.8
Total Gross expenditure	329.8	1,811.2	2,141.0
As % of gross spend	0.06%	12.3%	10.4%

³⁰ The 2024-25 rates are £248.70 per week for Free Personal Care, which would apply in residential care homes without nursing, and £360.60 per week for combined Free Personal and Nursing Care (FPNC). The cost this year’s increase is estimated at £11.5M according to the policy note included in the statutory instrument – see <https://www.legislation.gov.uk/sdsi/2024/9780111058879/policy-note/contents>.

³¹ <https://www.gov.scot/publications/scottish-local-government-finance-statistics-slgfs-2022-23-workbooks/> (LFR03 Social Work, revised June 2024).

³² The Notes pages to the published statistics workbook state: “Local authorities have advised that there are differences in how income is allocated across Social Care services, in particular where authorities are allocating income based on historic apportionments. These differences can greatly impact the comparability of the net revenue expenditure by Social Care service figures between local authorities”.

	Children & families	Adults	Total
	£M	£M	£M
Community-based and other services			
Income from Client charges	7.2	72.3	79.4
Total Gross expenditure	733.7	2,481.8	3,215.5
As % of gross spend	1.0%	2.9%	2.5%
Total			
Income from Client charges	7.4	294.9	302.2
Total Gross expenditure	1,063.5	4,293.0	5,356.5
As % of gross spend	0.7%	6.9%	5.6%

Note: published data excludes adult social care for **Highland**³³

On these figures, **abolishing non-residential charges** would cost around £80 million at 2022-23 prices, excluding the additional demand from people with eligible care needs whose take-up is deterred by charges. We cannot estimate the cost of **reducing residential charges** because we do not have the information on the division between *care* and *accommodation* costs within the National Care Home Contract standard rates (which generally set upper limits to amounts that local authorities are prepared to pay for publicly-funded placements in care homes, although supplements for more complex needs may also be paid). If, for example, the care element was 50% of the cost, then the annual cost is likely to be over £110M³⁴ at 2022-23 prices were the Free Personal and Nursing Care payments increased fully to that level.

With costs on this scale, implementation is unlikely soon. While Free Personal and Nursing Care payments have risen in recent years, this is largely in response to inflation³⁵ rather than progress towards the commitment to thus reduce the impact on paying residents of the care element in care home charges³⁶.

The **position on non-residential charges** (as at 20 December 2023) was set out by the Scottish Government in a response to a freedom of information request, subsequently published on its FOI webpages³⁷:

Outwith the FOISA request, I can provide you with the following information:

³³ Highland is excluded from this part of the LFR03 return because under the Lead Agency model of H&SC Integration in Highland, the council delegated responsibility for adult social care to NHS Highland, so that expenditure is counted as NHS not Local Authority – an anomaly now in the official statistics which surely could have been avoided.

³⁴ This estimate is on the basis that the FPNC “payments” are made as deductions from the cost of charges, and are therefore not included in the figures for £223M of income from residential charges recorded on the local authority return.

³⁵ “Emerging evidence in recent years shows that the cost of providing personal and nursing care has increased significantly and the payment made to providers by Local Authorities for self-funding residents has not kept pace with this. To help redress this it was decided to increase the weekly payment rates at levels above the GDP Deflator for 2021/22 and 2022/23. This resulted in increases of 7.5% for 2021/22 and 10% for 2022/23. For 2023/24 it was again decided to make an above GDP Deflator increase of 9.5% to these rates. Due to budgetary pressures, it was not possible to make an above GDP Deflator increase for 2024/25. Therefore the rates will be increased by the GDP deflator of 6.68% with rates increasing from £233.10 to £248.70 for personal care and increasing from £104.90 to £111.90 for nursing care”.

<https://www.legislation.gov.uk/sdsi/2024/9780111058879/policy-note/contents>

³⁶ That said, there has been a slight increase in the FPNC payment as a percentage of the total National Care Home Contract standard rates for care homes with nursing: from 36.8% on 2021-22 to 38.0% in 2024-25.

³⁷ <https://www.gov.scot/publications/foi-202300387766/>

1. The original timetable for April 2023 implementation was not met due to the challenging financial pressures within the Scottish Budget. However the Scottish Government remains committed to supporting people who pay towards their social care support as shown by their commitment in this year's Programme for Government.
2. The current status of the timetable for implementation, as set out in the Programme for Government, states that the Scottish Government is committed to working with COSLA, to explore and agree an approach with Local Government, to end non-residential social care support charges within the lifetime of this Parliament.
3. This work is ongoing and Scottish Government is currently undertaking work with COSLA and Local Authorities to ensure we have robust financial information on the cost of the commitment, including any increase of demand for social care.
4. As set out in response 202300381544, an exemption under section 36(1) of FOISA (confidentiality in legal proceedings) applies to some of the information requested because it is legal advice and disclosure would breach legal professional privilege. Further information is provided in the Annex to this letter.
5. The short-life working group continues to meet and is carrying out work.

The financial pressures on the Scottish Budget are even more challenging now. Without doubt, abolishing non-residential charges, and reducing charges for residential care, will be very popular among people receiving care or who need it now or in the future, and their families. Nevertheless, charging reform does not increase the total money available for social care, which arguably has greater priority in the short term.

7. Prevention and early intervention, and support to unpaid carers

This is probably the most important topic and needs greater attention than can be given here. In 2021 Social Work Scotland submission to the Scottish Government's NCS consultation included this statement:

Sometimes in adult services **prevention** is considered to be automatically delivered when the eligibility thresholds are lowered from critical only to include support for substantial, moderate or lower-level needs. For some people that will be true, in the sense that help now will prevent or delay the more serious needs that without such support are likely to develop in future, at greater cost. But for many people, the prevention resources that are needed do not exist in their communities. Partly this is due to the decade of austerity which reduced community services, such as community education and funding for community organisations; more generally, civil society has also been weakened. **Investment in prevention**, including community development and community social work therefore needs to go wider and deeper than the relaxation or abolition of eligibility.

Within children's services, the preventative agenda is a core part of the GIRFEC approach, involving partners in education, third sector, health, and community services. Expansion of prevention and early intervention is essential to fulfilling the Promise.

Preventative and other support to **unpaid carers** is often provided locally by carers centres and by national and local Third sector organisations. A review is needed to establish whether there are sufficient carers centres, or similar services, to enable access by carers, especially in rural areas. **Investment funding** is likely to be need to help set up new carers centres and also increase the capacities of existing centres to provide more support to unpaid carers. This should include investment to **widen the choice of types of short breaks and replacement care available**, and to improve their quality – as was also recommended by Feeley, but does not appear in the NCS consultation paper.

While Social Work Scotland welcomes the emphasis on **prevention and early intervention** throughout the NCS consultation paper, we do not think it goes far enough:

We will increase the number of care and support services which focus on prevention and early intervention, including community based services which can be accessed without a referral or full assessment. These will be at the heart of a Getting it Right for Everyone approach to care and support, and will work seamlessly with services for people with more complex care needs. [Page 20].

Social Work Scotland considers that a **wider engagement on prevention** is now needed, jointly with COSLA and other partners, including investment in community development, welfare rights, mainstream services, and community organisations. This will also need to consider the continuing relevance of the Christie Report (2011) recommendations, including the question of why these have been so difficult for the public sector to implement during the decade of austerity. Shifting funding from acute provision upstream to prevention, for example, has proved impossible without **double running costs** during the period of change. A pivot towards communities will also require changes in some social workers' roles³⁸

None of this has been taken forward in the last three years, apart from the intention in the NCS Bill to improve the support to **unpaid carers** by providing a legal right to a break, a crucial element in prevention as Scotland's nearly one million unpaid carers provide larger volumes of care than paid staff.

The **proposed 'right to a break' for unpaid carers**, set out in the NCS Bill, is a welcome step. However, we are concerned that the **planned investment is insufficient**. The revised Financial Memorandum shows funding building up slowly over ten years, from only £26M in 2026-27, the final year's budget to be set before the next Scottish Parliament elections on 7 May 2026, to £225M in 2034-35 (both figures are averages of the lower and higher estimates in the revised Finance Memorandum, at estimated outturn prices³⁹). Unfortunately, several problems with these funding estimates have not been resolved, particularly in what they mean for local authorities in general, and social work specifically.

First, the carers' right to a break introduced by the NCS Bill is a right to have assessed unmet needs met by services provided or arranged by a local authority, including where necessary replacement care. This is **highly likely to increase demand for carers' assessments, but no funding has been provided** within the Funding Model and revised Finance Memorandum for such increased demand. In practice this is likely to mean that more carers, now with greater incentive to seek carers needs assessments from their local councils, will find themselves on assessment waiting lists.

Secondly, there is **no planned investment in carers infrastructure**, such as increasing the capacity of local carers centres or helping to establish them in the many localities where they do not exist – arguably that is the most immediate need.

Thirdly, the revised FM provides **less funding for third sector "easy access breaks" not requiring assessment** than was in the original FM; this is likely to lead to increased demand on local councils and seems inconsistent with commitments to shifting resources towards prevention. Finally, the costings rely solely on the Scottish Health Survey for the prevalence estimate of *adult* carers when this is known from other population surveys **to under-count adult carers**. There are also problems with some of the **unit costs** used in the calculations and with **the estimates for**

³⁸ See Colin Turbett (2024) *Assessment and Care Management: Its history and context within Social Work in Scotland today*. Common Weal Care Reform Group, published jointly by Unison, SASW and SWS: <https://socialworkscotland.org/reports/assessment-and-care-management-its-history-and-context-within-scotland-today/>. LAs also need to recruit community workers.

³⁹ The original FM was at estimated 2022-23 prices for the Carers section only, with no inflation uplifts for future implementation years

current funding, which are subtracted from the costing model's gross outputs to produce the net costs in the FM for the right to breaks from caring for unpaid carers

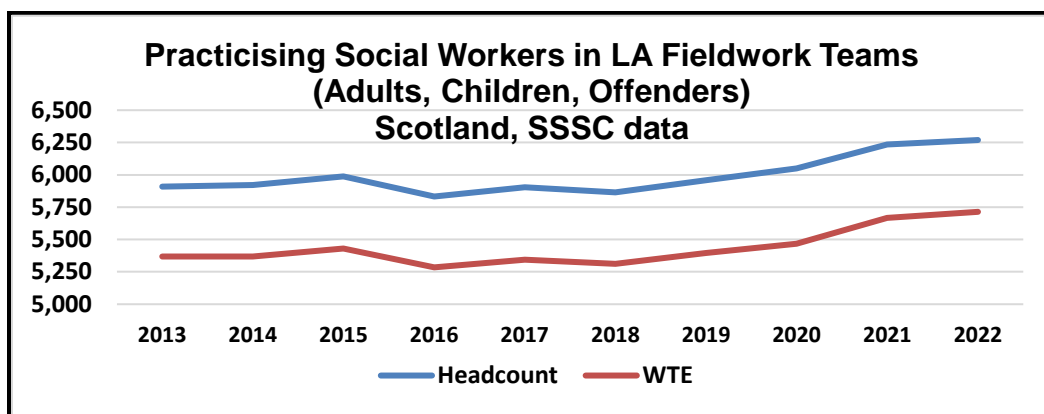
Please see our joint letter⁴⁰ with COSLA earlier this year to the Convener of the Finance and Public Administration for further analysis of these issues. While the policy around carers is generally positive, but under-funded, it does not benefit from being included in the NCS Bill, and as with Annie's Law and other elements, we believe they can be progressed separately, through alternative, quicker legislative routes.

Moreover, **unpaid carers are under increasing pressure⁴¹. There is therefore a strong case to invest in the infrastructure of local carers centres as soon as possible**, before implementing a fully-funded right to a break, as separate legislation amending the Carers (Scotland) Act 2016.

8. Investment in social work services

Local authority social workers have key roles within care, support and protection services for older people, people with disabilities and mental health problems, and people with addictions, as well as for children and families. Justice social work services are also responsible for working with offenders.

The Scottish Government is investing in social work education and training⁴², but further investment will be needed subsequently to grow the workforce. While overall numbers have increased in recent years in most but not all local authorities, the average annual increase for WTE⁴³ staff is only 0.7% per year, which is far lower than the best available estimations of the growth required to meet demographic factors, which we have seen is around 3.5% per year (for adult social care).



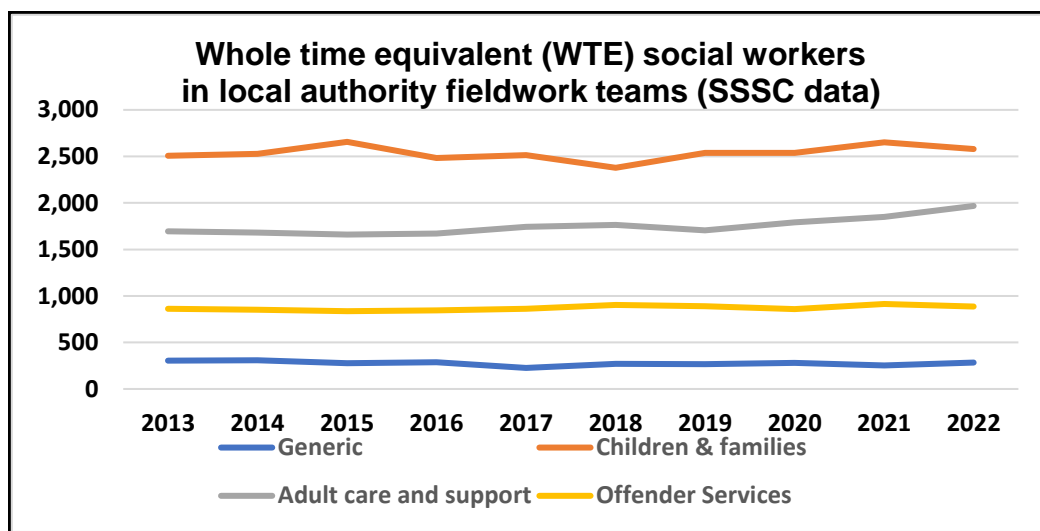
Looking at these trends by type of team, the increase in numbers of social workers has only been in adult teams (1.7% pa over the period):

⁴⁰ <https://www.parliament.scot/chamber-and-committees/committees/current-and-previous-committees/session-6-finance-and-public-administration-committee/correspondence/2024/national-care-service-scotland-bill-financial-memorandum-letter-of-12-february-2024>

⁴¹ Many surveys report this finding. See also the recent Audit Scotland report on IJBs (25.7.24: *There is an enormous reliance on unpaid carers to support the social care system. This reliance on unpaid carers is increasing as the social care paid workforce is under increased pressure. This is unsustainable.* [para 96-97] *Unpaid carers [...] are also disproportionately affected by the increased cost-of-living* [Key findings]. <https://audit.scot/publications/integration-joint-boards-finance-and-performance-2024>

⁴² <https://socialworkscotland.org/sws-projects/social-work-education-partnership/>; <https://swepsotland.org/>

⁴³ WTE= whole time equivalent. Data from: <https://data.sssc.uk.com/data-publications/22-workforce-data-report/328-scottish-social-service-sector-report-on-2022-workforce-data>. The 2023 report is expected to be published on 30 August 2024.



Increasing demand and tighter eligibility criteria have led to larger and more complex workloads, which are increasing seen as unmanageable⁴⁴. Caseloads carry greater risk and the work is more stressful. Vacancy rates were over 10% at December 2023, the latest available⁴⁵. As is the case with social care, the social work system in Scotland is in ongoing crisis, with low staff morale and recruitment and retention problems.

The Scottish Government intends that a new National Social Work Agency will take forward the further work required. The Stage 2 Policy Memorandum gives the first of five “foundations for the NASW” as:

Ensuring a social work workforce that is equipped and resourced to undertake its professional duties. [paragraph 154]

Workforce planning for social work is intended to be a major task of the NASW, alongside overseeing: “social work education (pre and post-qualifying, policy rationale and improvement activities based on evidence-based insight; implementation support with social work employers to ensure Scotland achieves its policy intentions; and training and professional development” (NCS Bill Stage 2 PM paragraphs 145-146). The funding within the revised Financial Memorandum for the Bill was reduced from £18-£12M originally to £1-2M for “additional staffing annually”. We understand that a further clarification of these costs is given in the NASW Business Case, which is not yet in the public domain. **However, the key point here is that the implementation costs of workforce planning for social workers have yet to be estimated or funded.**

9. Ethical commissioning

The Minister’s letter⁴⁶ to the Health, Social Care and Sports Committee of 28 March 2024 noted that

Work is underway with partners to develop national principles, standards, guidance and practical support for ethical commissioning and procurement which will be agreed and set by the new NCSB [National Care Service Board], to inform the development and delivery of local ethical commissioning strategies. [Page 9]

⁴⁴ See Social Work Scotland *Setting the Bar* reports - June 2022: <https://socialworkscotland.org/reports/settingthebar/#more-10082> and December 2022: <https://socialworkscotland.org/reports/settingthebar2/#more-10542>

⁴⁵ Source: <https://data.sssc.uk.com/data-publications/352-social-worker-filled-posts-and-vacancies-six-monthly-survey-at-december-2023>

⁴⁶ <https://www.parliament.scot/chamber-and-committees/committees/current-and-previous-committees/session-6-health-social-care-and-sport-committee/correspondence/2024/ncs-stage-1-report-full-response>

The Committee had heard evidence that:

competitive tendering [...] is not compatible with ethical commissioning and that it promotes transactional procurement related to cost that, to date, has led to time and task approaches and unfair work practices in the provision of social care, irrespective of whatever guidance is in place⁴⁷.

Recommendation 90 included:

... the Scottish Government should undertake a review of procurement practices and develop a strategy to remove competitive tendering from social care procurement, in favour of a collaborative approach to commissioning and procurement which is underpinned by ethical commissioning principles. This should include a clear definition of ethical commissioning.

The Scottish Government's response to the Stage 1 Report included a defence of competitive tendering based on quality rather than cost:

Competition can be used to determine that contracts are awarded to services providers who demonstrate that they meet and are committed to delivery against the national care service principles. Therefore, when used in the right way, competitive procurement practices, alongside collaboration, supports the vision of the National Care Services. [...] The element of competition should focus on quality not cost. It is a means of evaluating the quality and compliance, including health and safety and financial stability, of the available service providers and ensuring that they can meet the needs of people with lived experience. The result of this form of competitive process is a contract, and the associated public funds, being awarded to the most suitable provider based on the evaluation criteria. We believe competitive tendering, when used in the right way, is compatible with ethical commissioning. Ethical commissioning and procurement principles will set out expectations for how procurement should operate within the National Care Service. [pages 78, 79]

The response also contained a discussion on the amendments to procurement legalisation in the Bill to strengthen the right to restrict tenders for care services to "qualifying organisations": The "policy intention of the amendment is to change the criteria of the definition to third sector and social enterprises" (page 77). However, no such amendments to section 41 have been included in the Government's Stage 2 list, so we assume that amendments in question are those to the Public Contracts (Scotland) Regulations 2015 in the original Stage 1 Bill, and are regarded by the Scottish Government as sufficient to achieve this aim.

Social Work Scotland, like many other stakeholders, welcomes the direction of travel away from "time and task procurement" to more ethical commissioning from a wider sets of providers that includes social enterprises and worker cooperatives. However, "time and task" procurement at the lowest cost the care market can produce is simply the produce of many years of tight funding for local authority social care commissioning and procurement.

The Feeley Report (2021) raised issues about "value leakage" from private sector care commissioned or purchased by local authorities⁴⁸. Research commissioned by the STUC on *Profiting for Care (2022)*⁴⁹ took this further in a thoughtful analysis of how ethical commissioning might address a wider set of issues, concluding that:

'Ethical commissioning' should thus consider factors such as **business model, ownership structure, governance, scale, worker and user voice, trade union recognition/collective bargaining rights and institutional culture**. Shifting the focus of commissioning to these factors would facilitate the move away from competitive tendering and framework agreements

⁴⁷ Health, Social Care and Sports Committee Stage 1 Report, Recommendation 89 [[weblink](#)]

⁴⁸ "Our principal concern is not with profit itself, which plays an important function in any market economy, but with what we have come to think of as "leakage" from the care system in Scotland. Significant sums leave the care economy, some of which could be better used to raise standards of care and terms and conditions for staff. We therefore recommend that the National Care Service should take these concerns into account as part of its development of a new approach to ethical and collaborative commissioning" Feeley IRASC Report, page 76

⁴⁹ <https://www.stuc.org.uk/research/>

- which have been consistently identified as contributing to poor working conditions in the sector, such as insecurity and overwork - towards the 'partnership' approach which Scotland aspires to. [Page 41].

Ethical commissioning is certainly not cost-neutral. The overall funding requirements for phased investment in ethical commissioning have yet to be determined, even on an incremental phased basis.

10. Improving performance and management information

Social Work Scotland addressed this issue in its 2021 NCS Finance submission:

The Feeley report mentions in several places the need for better data, information, and outcome measures, and this is seen as one of several key priorities for the proposed National Care Service. In the transition from the current paradigm to the new one, it is essential that the assessment process delivers much better data on people's needs, the solutions, support and services in the care and support plan, their costs, and any remaining unmet needs, alongside the development of community resources to support prevention. This will require recording practice to be reviewed to enable IT systems to be able to capture this information in a form in which it can be aggregated and fed back to influence budget-setting, commissioning and policy development. In this way the range of solutions, support, and services can be monitored alongside data on unmet needs, so that over time a clearer picture emerges of the costs of the new paradigm, and the extent of any unmet need. Investment in IT systems, information recording, and data extraction and analysis is necessary at both local and national levels to achieve these ambitions.

Little progress has been made on these issues. There remain serious problems with Scottish social work and social care statistics on service activity and expenditure, which significantly impairs national and local planning. **We badly need an improvement project now to address data quality and scope, while we wait for the future electronic social care record to provide anonymous data extracts for management information and statistics.**

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20 September 2024