

The National Care Service: Where Now?

April 2025



Executive Summary

Whatever the fate of the Care Reform (Scotland) Bill, it is now clear that delivering meaningful whole system change to social care support will necessarily extend beyond the lifetime of this parliament.

The collapse of proposals to establish a National Care Service in the original Bill could not have come at more critical time for social care support. And the next steps set out to date are insufficient to address the scale of the predicament we are now left with.

The last four years demonstrate that significant cross-party support, collective institutional effort and meaningful stakeholder involvement will be essential to advance reform over the long term. The work to ensure this happens must start now.

System change is critical – the status quo is not an option. However, while structural reform will be required, culture change is the paradigm shift that the Feeley Review called for. Only by getting to grips with meeting that challenge will we be able to arrive at a workable model of social care support reform fit for purpose.

The government is establishing a non-statutory advisory board. It is paramount that the purpose, membership, terms of reference, resourcing and work programme for this board are given very careful consideration before its deliberations begin. Whatever its short-term remit, there are four key areas for future reform which require its attention.

- **Purpose:** Clarity about the purpose of a National Care Service is an essential starting point. That must underpin the establishment of a robust set of rights-underpinning principles for any future legislative change.
- **Oversight and accountability:** Consistency of standards and access mean that oversight and accountability at a national level is critical. Establishing the right mechanism to make this work in practice will require care and consensus.
- **Ethical commissioning and procurement:** Reform must be predicated on a robust framework for the commissioning and procurement of social care support for the public good. The current gap between commissioning intent and procurement practice must be closed.
- **Funding and investment:** Sustainable reform requires transparency about the totality of funding available for the delivery of social care support, including long overdue investment in the delivery of Fair Work and the effective management of system risk.

The experience of the last four years offers two fundamental lessons. First, if reform is to deliver on the core purpose of social care support, form must follow function. Second, it will not be possible without meaningful co-design. This must involve people supported by social care support including disabled people, people with long term conditions and unpaid carers (and the organisations which represent them) and social care support providers across the independent, not for profit and charitable sectors.

Introduction

This paper has been prepared following shared discussions between six organisations: the Coalition of Care and Support Providers in Scotland (CCPS), the Health and Social Care Alliance Scotland (The ALLIANCE), Inclusion Scotland, the Glasgow Disability Alliance (GDA), Scottish Care and the Coalition of Carers in Scotland.

We are a group of membership organisations representing the interests of social care providers across the independent, not-for-profit and charitable sectors, and people supported by social care including disabled people, people with long term conditions and unpaid carers (and the organisations which represent them).

Our purpose in publishing it is to set out some ideas about how to move social care support reform on in the wake of major revisions to the National Care Service (Scotland) Bill – now the Care Reform (Scotland) Bill. We do so against the backdrop of the hurried completion of Stage 2 of what remains of the Bill which has left no time for meaningful engagement and in the absence of clarity about precisely how the process will end.

We are also acutely aware of the potential detrimental impact of wider legislative developments on those who need and use social care support. These include the dropping of the Human Rights Bill and ongoing uncertainty about full incorporation of the Convention of the Rights of Disabled People and the future of the Learning Disability, Autism and Neurodivergence Bill.

As individual organisations we have made no secret of our dismay at the debacle which has ensued over the last four years, the ongoing lack of co-design and the failure to realise the ambitions set out by the Independent Review of Adult Social Care in Scotland in February 2021 (the Feeley Review).

Collectively we believe that the next steps set out to date are insufficient to address the scale of the predicament we are now left with. Responsibility for grasping that predicament lies, in the first instance, with the Scottish Government but it will require co-operation from others, not least COSLA, and cross-party co-operation in the Scottish Parliament.

Indeed, the last four years demonstrate that significant cross-party support, collective institutional effort and meaningful stakeholder involvement are essential to advance reform. As strategic stakeholders in social care, we include ourselves in that, and it is with this in mind that we are setting out our shared thoughts on what needs to happen now.

Background and context

Over the last few months, we have come together to share our concerns about the lack of progress on social care support reform since the publication of the Feeley Review.

While we have had shared and distinct perspectives on the passage of the Bill, we are united in our view that the Feeley Review offered a significant opportunity to advance much needed and long overdue transformational change in Scotland's social care support system.

Prior to the publication of the review, there had been ongoing discussions in Scotland about social care support reform for the best part of a decade with little to show in terms of meaningful progress. Even where positive steps were committed to – like the Social Care (Self-directed Support) Act or the Fair Work in Social Care Report recommendations – actions didn't match words.

In the wake of the COVID pandemic, the Feeley Review, with its focus on shifting the paradigm, strengthening the foundations, and redesigning the system offered a blueprint for moving beyond talk. Four years later we are scarcely any further forward. The passage of the Bill has been beset by a series of hiatuses and dominated by disagreement between the Scottish Government and COSLA.

Meanwhile those in receipt of social care support and those on the frontline of provision including unpaid carers have been left to look on from the margins. The sustainability of the social care sector in Scotland has slid into an increasingly perilous state while the needs and rights of those it should be there to support are not being met.

Where are we now and how did we get here?

After weeks of speculation, the Ministerial statement made to Parliament on 23 January at last provided some clarity about the Bill's fate. However it has left us in the extraordinary situation of the Bill proceeding stripped of the fundamental pillar of a National Care Service it was intended to enable, all of which leaves us with the question – where do we go from here?

There will doubtless be continued disagreement about how we arrived here. While recrimination and blame will not help move things forward, in our view it is important that there is honest and transparent reflection and that lessons are learnt. This is critical if the same mistakes are to be avoided in future.

We are united in our view that system change is critical. However, we also believe that the government's attempts to press ahead with the Bill have from the outset been hindered by a failure to set out a coherent model of change. This has been compounded by a lack of collaboration between the Scottish Government and COSLA, despite the partnership principles subsequently articulated in the Verity House agreement.

Despite consultation both prior to the Bill in 2021 and following its publication in 2022, the maxim ‘form follows function’ has been neglected in the process which has unfolded, to its detriment. If social care support reform is not to remain a ‘wicked problem,’ it is vital that consensus must be built around the purpose of a National Care Service and that clarity about this core question should precede attempts to fix the problem.

In her statement to Parliament, the Minister said that she had concluded that, “we must deliver the Scottish National Care Service without legislating for structural reform, securing a different means to deliver our goals.”

We do not believe that achieving the necessary reform can be an either/or. Structural reform will be required. However, we do think that in focusing too heavily on structural reform in the Bill process, the government has ignored the fact that system change needs to start with cultural change; that is to say, the existing relationships and behaviours in the system at large. Regrettably, the protection of vested interests which has been a feature of the process to date only serves to underline that point.

Culture change is the paradigm shift that the Feeley Review referred to. Only by getting to grips with what that needs to look like will we arrive at a workable model of social care support reform. And only then will it be clear what structural change is required, what elements of that will need to be incorporated into legislation and what investment will be needed to ensure delivery in the long term is sustainable. Critically, all of this must also be considered in the context of public service reform at large, and reform to the NHS.

The Scottish Government has said repeatedly that it remains committed to realising the ambition set out in the Feeley Review. However, given that the current Bill will now not be the vehicle for fundamental reform, legislative change to do so will not be possible this side of the 2026 Scottish Parliamentary elections.

While this heaps delay onto delay, it does provide the opportunity to rethink how such reform might be achieved in practice. The status quo is not an option, and we cannot afford to fail again. Success requires consensus which is both cross-party and inclusive of institutions and stakeholders representing the interests of those who use and need social care support and those who deliver it.

This is not to say that action in the short term is not necessary. Historic underinvestment in Scotland and the UK government’s changes to employers’ national insurance contributions combine to pose a clear and present danger to the fiscal sustainability of services which were already on a shoogly peg and to the viability of disabled people-led and carers’ organisations whose advocacy is critical to the redesign of social care. People needing support are further hit by the lack of urgency in progress on previous government and COSLA commitments to remove non-residential care charges.

Nor is it to deny the importance of the provisions in parts two and three of the Bill, like Anne’s Law and rights to breaks for carers, and some limited progress on commissioning, which the government intends to press ahead with. But the reform required to meet need and respect, protect and fulfil people’s rights to independent living and provide access to

timely, acceptable and quality social care support, cannot be delivered through piecemeal changes.

Similarly, any new right to breaks for carers can only fulfil its potential with the necessary investment, resourcing, commitment and leadership to develop a sustainable short break sector that can meet the diverse needs and circumstances of all carers.

We are extremely concerned that the government's position appears to be that because it has run out of road, reform must amount to what can be achieved before the next election. This is simply and wholly insufficient.

Our positions and priorities

Each of our respective organisations has engaged in good faith with the recurrent consultation processes which have run since the Feeley Review. We have, of course, done so in consultation with our own membership bases, and with their specific concerns front and centre of our considerations.

In representing the interests of disabled people, those with long term conditions, unpaid carers and providers, while we have had a shared focus on many aspects of the Bill, we have also prioritised particular areas of concern to us in our individual responses.

We also recognise that in advancing a shared perspective on how the process moves forward, we are missing the direct perspective of one crucial part of the frontline: that of the direct voice of the workforce. Notwithstanding that gap, concerns about the necessity of making progress on Fair Work, including pay parity across the sector, have in various ways been part and parcel of our considerations. We believe that Fair Work underpins a human rights-based approach to the delivery of social care support.

However, whilst our perspectives are sometimes different, we are united in our support for the vision, ambition and core principles set out in the Feeley Review. This includes a shared commitment to the principle of co-design and co-production and to building a system which enables individuals and families to realise their rights, retain and regain control of their own lives and thrive in their communities.

Our advocacy for co-design and co-production is not merely a matter of process. Rather our shared view is that harnessing the expertise and insights of our members and constituents is fundamental to the successful reform of social care support.

Where do we go from here?

We are profoundly disappointed at the government's failure to secure consensus which has resulted in the jettisoning of much of the Bill at such a critical time for social care support. We are also incredibly frustrated at the wasted time and effort involved in engaging with the

Bill to date. However, we remain absolutely committed to engaging with the process of reform and urge others to do the same.

The government has stated that several key considerations should be front and centre moving forward: shifting attitudes to fully value social care; access to high quality support and services for everyone; embedding human rights; participation; and access to information.

More specifically, the Minister's statement to Parliament referred to a raft of issues including national support and oversight; local monitoring and reporting frameworks; a charter of rights; national standards and guidance for commissioning and procurement; overhauling eligibility criteria; removing non-residential charging; supporting the workforce; and changes to secondary legislation, guidance and the approval of integration schemes to ensure that the voice of lived experience is heard and to increase accountability and financial transparency.

We agree that these are important considerations. We have also noted the government's recognition that social care reform will require a four nations approach and its commitment to engage with the commission established by the UK government. However, this must not be overstated and used as a means of kicking the Scottish can down the road.

We are concerned that the government's position does not fully acknowledge the need for whole system change and the investment needed to sustain it. Nor does it appear to be predicated on a coherent model for achieving that change. In our view that must be the starting point for moving forward now.

A non-statutory advisory board?

The government is in the process of establishing a non-statutory advisory board. However, it is far from clear what the scope and purpose of such a board will be. It has been presented in some commentary as a replacement for the board in part one of the Bill.

Given the decision to abandon part one of the Bill, this cannot be the case. Neither, in our view, can it be a board merely to help the government steer an inadequate piecemeal process of reform between now and the election.

Given the waste of time and energy on the process since 2021, we are concerned about whether it can have genuine effect without a commitment from the government to act on its recommendations or justify their intention not to do so. Indeed, given the government is no longer taking accountability for social care as previously envisaged, it is not clear the proposed board is even advising the right people.

It is therefore paramount that the purpose, membership, terms of reference, resourcing and work programme for any such board are given very careful consideration before its work begins. In the meantime, we hope our own priorities for reform, set out below, may help shape next steps.

Four key areas to focus on

It is with the longer term in mind that we will turn now to four key areas which we think need immediate focus. These are born out of our shared deliberations about how to move beyond the impasse on the Bill towards the end of last year and before the Minister's recent statement to parliament.

We were therefore in part focused on whether it might still be possible to amend part one of the Bill in a way that overcame disagreements and secured cross party support. We appreciated that this was a tall order in the time available and recognised that we needed also to be looking forward to measures which might form the basis of a legislative reform programme in the next parliament. Clearly part one is now gone. But with the government's advisory board still in formation – and with all parties designing manifestos for 2026 – we feel it remains crucial to articulate these priorities.

The purpose of a National Care Service

We think one of the failures of the last four years, despite the platform provided by the Feeley Review, has been to establish a consensus about what the purpose of a National Care Service would be. The preoccupation with structure means that the process has lost sight of those whose lives social care support is there for.

Ultimately the purpose of a National Care Service must surely be to enable individuals and families to realise their aspirations and thrive through a rights and relationship based and integrated publicly funded care and support system. In keeping with the principles in the Feeley Review, this must be designed collaboratively and predicated on a human rights-based approach.

Delivering a rights-based system in practice must become consistent, intentional and evident in the everyday experience of everyone using social care and support, unpaid carers and families, and people working in the social care support and social work sector.

Recommendation 2, Independent Review of Adult Social Care in Scotland

Clarity about the purpose of a National Care Service is also a necessary starting point for the establishment of a robust set of rights-underpinning principles for any legislative change, one of the fundamental things that the Bill process has failed to do.

These must include the right to need-satisfaction (i.e., that meaningful participation in society depends on people having the appropriate resources to do so) and recognition of the right to breaks from caring as a basic human right.

Oversight and Accountability

One of the other fundamental things that has been insufficiently clear in the process to date is the extent to which a National Care Service would be based in whole or in part on the

establishment of a new entity. And if, as likely, the latter, what would be the relationship of such an entity to government and other parts of the system.

In our discussions we recognised that securing consensus on the way forward would mean accepting that a National Care Service would be predicated on a multi-agency approach, primarily at local level, adapting existing arrangements for commissioning, procurement and delivery. Subsidiarity to the level of individuals and families is paramount to maximising choice and control. Care and support must therefore be delivered locally and be available and accessible to all those who need it.

However, the aspirations set out in the Feeley Review about consistency of standards and access mean that oversight and accountability at a national level is critical. It is for that reason that we supported the establishment of an inclusive National Care Service Board within the legislative framework.

In our discussions, we explored different ideas for making this work in practice including the possibility of establishing a new Executive Agency which would be responsible for a range of functions. These might include:

- Scrutinising the implementation of legislation and national and local expenditure on social care support
- Directing local investment and fostering creativity and innovation
- Establishing national improvement frameworks for the delivery of social care support
- Driving a strategy for Getting it Right for Everyone (GIRFE), including prevention and early intervention
- Driving a strategy for the future of the social care workforce including growing talent, support and training
- Overseeing workforce planning and driving the delivery of Fair Work at national and local level
- Conducting research and information gathering to advise Ministers, including data on unmet need and lived experience of social care support outcomes
- Setting national indicators for ethical commissioning and procurement explicitly framed around human rights
- Ensuring the implementation and ongoing delivery of ethical commissioning and procurement
- Setting standard terms for reporting against in the delivery of social care support and scrutinising their application
- Advising Ministers on a complaints process and the provision of a right to redress.

The above are intended to be illustrative rather than prescriptive or exhaustive but provide a flavour of what such a body might do. Of course, consideration of the rationale and remit of such a body would need to include what its relationship to a range of existing bodies would be, including the Care Inspectorate and SSSC, for example, and/or whether those functions could be delivered in whole or in part through collaborative arrangements between those agencies.

However, we were drawn to the Executive Agency model because it would enable oversight and accountability to be provided at arm's length from government. It would also enable the involvement of an independent chair and advisory board harnessing relevant non-executive expertise and insight such as lived experience of social care support.

Commissioning and procurement

Ethical commissioning and procurement are fundamental pillars of the reform of social care support. The Feeley Review called for a transformation of the planning, commissioning and procurement of social care based on 'relationships and partnership' rather than 'competition and market-places'. It recommended:

A shift from competitive to collaborative commissioning must take place and alternatives to competitive tendering developed and implemented at pace across Scotland. Commissioning and procurement decisions must focus on the person's needs, not solely driven by budget limitations.

However, the extent to which delivering that shift might require in terms of structural change and what that might mean in practice has dogged the process and, arguably, has been at the heart of the schism between government and local authorities.

Whilst some changes to procurement have been left in the Bill and will, as they stand at the time of writing, make some important improvements, they do not themselves institute Feeley's proposals for commissioning for public good – or, as it has become more usually described, ethical commissioning.

We share a commitment to the development of arrangements which deliver on the Feeley Review and enable a framework for the commissioning and procurement of social care support for the public good which would:

- Remove the current gap between commissioning intent and procurement practice
- Ensure local bodies embed ethical commissioning and procurement in their strategic plans
- Ensure a level playing field which places third and independent sector providers on an equal footing with statutory providers in decision-making about the distribution of public funds
- Provide for parity of remuneration across the social care workforce and embed Fair Work principles in delivery

Whilst the Bill no longer takes us as far as Feeley envisaged, we are keen to explore how both cultural change now, and additional legislative change in the future, could progress effectively. For example, one alternative approach would be to take social care "out" of the procurement regime and give it its own regime. A possible model for this approach exists in the Health Care Services (Provider Selection Regime) Regulations 2023 in England.

Funding and investment

The Feeley Review recognised adult social care requires greater investment and that it must be seen as an investment in Scottish society and not a funding burden. The review set out some of the things for which additional investment is required and emphasised the importance of avoiding investment in bad outcomes. It also recommended that careful consideration should be given to options for raising revenue to increase investment.

Consideration of revenue raising options is critical but, like structural change, it must be driven by clarity about the purpose of social care and the system change needed to realise the ambitions set out by the Feeley Review. It must also be predicated on robust data and evidence about current and future need and the cost of delivering Fair Work.

The total amount of funding and options for raising additional revenue were outside the Bill's scope. However, meaningful reform needs to enable transparency about the totality of funding available for the delivery of social care, including long overdue investment in the social care workforce and the effective management of system risk. We believe that the failure to properly acknowledge this was a factor in the breakdown of relations between Scottish Government and COSLA we have already referred to.

Whatever institutional arrangements are put in place to provide effective oversight and accountability in the design and delivery of social care, consideration needs to be given to the establishment of a mechanism whereby Ministers publish the totality of budget available for delivery.

Whatever body is put in place to provide oversight should in turn provide an independent assessment of risk in relation to the availability of funds and delivery. At a local level this needs to be mirrored by the bodies responsible for social care commissioning and contracting setting out the allocation of funds for social care delivery and the concomitant risks. This must include risks to the delivery of statutory duties, Fair Work principles and human rights obligations without resorting to raising eligibility thresholds.

Conclusion

We know from our long and deep experience of work in this area that there is no easy fix to reforming social care support. We certainly do not pretend to have all the answers. Nor does this paper cover all the issues and challenges at stake. However, the need to grip the problem and take action to implement solutions, many of which have been long advanced and well-rehearsed, is greater than ever.

Whatever is achievable in the short to medium terms, including what emerges in terms of salvaging specific provisions of the Bill, delivering meaningful whole system change will now necessarily extend beyond the lifetime of this parliament. But the work to ensure that happens must start now. We are eager to play our part.

Coalition of Care and Support Providers in Scotland

Coalition of Carers in Scotland

Glasgow Disability Alliance (GDA)

Health and Social Care Alliance Scotland (The ALLIANCE)

Inclusion Scotland

Scottish Care

Our joint thanks go to Chris Creegan who facilitated our discussions, crafted this document with us and demonstrated what co-production really can do.

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