Health and Sport Committee call for evidence:

Public Bodies (Joint Working) Scotland bill

SCVO response

Summary

The response from the Scottish Council for Voluntary Organisations (SCVO) reflects perspectives from a range of SCVO members. Many of us highlight similar points, namely:

- The role and contribution of the third sector in the creation of more integrated services has not been adequately recognised in the Bill or associated deliberations.
- The risk that the third sector's expertise and strategic contribution to reshaping care and joint commissioning could be lost.
- The role of the sector in facilitating high level representation for people with disabilities, carers and families in the services designed for them.
- The need for effective co-production – with disabled people, carers and communities at the heart of creating integration plans and the kinds of services which help people to live the fullest lives possible.
- Plans to integrate health and social care do not tackle existing challenges arising from squeezed public finances – e.g. increased use of charging and tightening eligibility criteria in social care;
- The operating environment for the third sector remains challenging, stretched further by welfare reform. This will impact on the sector's ability to contribute to the development of more holistic and integrated services, when it has much to offer.

We call on the Health and Sport Committee and the wider Parliament to consider what the Bill is trying to achieve. Is the Bill in its current format enough? Are there other ways in which the policy intentions might be achieved? And how do we drive the shift in power needed to truly reform and create public services which are "...**built around people and communities**, their... aspirations, capacities and skills"?[1]

Any policy intentions which seek to kick start the momentum needed to bring about a real shift from top-down services towards investment in communities, which help to nurture self-help, resilience and the approach outlined by the Christie Commission would be welcomed by the third sector. Yet, from a third sector perspective, the Bill as it stands - and indeed legislation alone - may not be sufficient to bring about the scale and nature of change required.

[1] http://www.scotland.gov.uk/Publications/2011/06/27154527/10

Introduction

SCVO welcomes the opportunity to make a written submission to the Health and Sport Committee as it begins to consider the Public Bodies Bill.

Major change is required in the way Scotland approaches the health and wellbeing of its population if we are, as a nation, to improve and flourish.

The current public service environment with the ageing demographic, shrinking public expenditure, an assault on social security, constitutional uncertainty and institutional 'territorialism' presents a major challenge that should not be shirked. Guidance on how to approach the challenge exists in the form of the recommendations from the Christie Commission, which the third sector fully supports. Nothing should be used as an excuse to detract from putting people at the centre of public services, and enabling communities, themselves, to achieve their aspirations. This should underpin the Public Bodies Bill.

SCVO will address each of the questions posed by the Health and Sport Committee in the scrutiny of the Bill and, in addition, wider issues arising from the Business Regulatory Impact assessment and the impact of the UK welfare reform agenda.

Question 1: Do you agree with the general principles of the Bill and its provisions?

Outcomes and assets

By its very nature, the third sector will focus on ensuring that services are person-centred, asset based and sustainable. This focus is not well reflected in the Bill e.g. in terms of guiding principles. We support the Christie Commission proposition that what happens on the front line is more important than any changes to the infrastructure.

The draft principles allude to the vision for public services envisaged by the Christie Commission but don't go far enough to take forward that vision, specifically:

- **public services that are built around people and communities**, their needs, aspirations, capacities and skills, and which work to build up their autonomy and resilience;
- public service organisations **prioritise prevention, reduce inequalities** and **promote equality**; and
- public services which are **open, transparent and accountable[2].**

The first point above highlights the shortcomings in the Bill, where its draft principles focus on needs, and not outcomes or the assets that people and communities bring, and how health and care interventions can help people to live independently, achieve their goals and live well. The fact that the Bill is called "the Public Bodies Bill" also sends the wrong message about the aspirations underpinning it.

We would also argue that the final Bill principles should sit at the beginning of the Bill – shaping how partners read and take forward its provisions.

[2] Ibid.

The principles as they stand set a negative tone, and one which endorses the current systems of eligibility, risk aversion, 'medical' models and views of disability and long term conditions. We would argue strongly for the draft principles to reflect the Christie principles more clearly. One of the key policy intentions behind the Bill is improved quality of services – yet this is missing as a bill principle. A stronger reflection of key human rights would provide a positive focus on the key things which matter in achieving better health and wellbeing for people.

Shifting power - third sector, service user and carer involvement

As a matter of principle the sector, alongside disabled people, carers families and others with an interest, should be represented at the highest levels in developing and monitoring integration plans, directing resources, and filtering through to delivery. From a third sector perspective there are a number of avenues of involvement: –a voice for people who are vulnerable, disadvantaged or marginalised; a bringer of knowledge and expertise and a provider of a wide range of services and supports.

Successful implementation of the policy intentions behind this Bill can be facilitated by ensuring that disabled people, older people, unpaid carers, families and relevant support organisations have a clear role in developing and shaping integrated services. That involvement cannot be tokenistic - this is about bringing the principle of co-production to life.

Therefore there should be third sector, service user and carer representatives at the table, with links to wider constituencies who can support them in this role. Third sector colleagues will call for sector voting rights and the ability to 'sign off' integration plans. Arguments made by statutory partners that this risks the delivery of statutory services do not give the sector and disabled people/carers the parity of esteem or respect that they deserve as we seek to achieve the goal of holistic, integrated services.

However, we must consider what would happen in the event of these representatives being unable to support integration plans or specific decisions about services. There are a number of options in this context:

- A wider consultation on a decision or plan which is 'in dispute'– if duties to consult in the Bill are adhered to, then these processes and time/support for wider constituent involvement should already be in place.

- The ability of statutory partners to refer the plan or decision to their own lines of accountability or for non-statutory partners, such as the third sector, to refer to Ministers.

- A right of veto which would effectively mean that the integration plan needs to be revised to enable non-statutory partners such as the third sector to 'sign off'.

It is important that we learn from the Reshaping Care change fund process where on a number of occasions, third sector partners found themselves unable to support local change plans.

Third sector organisations will also argue for a principle of engagement within the Bill which focuses on involvement in planning, delivery and monitoring of integration – this would seem to be a sensible and worthwhile proposal.

A major shift to bottom-up, asset and rights based approaches in planning and delivery is required. **The Bill must set the tone –alongside other policy/legislation, it must facilitate a shift of power back to people at the receiving end of the services to be 'integrated'.** The focus on independent living and participation encouraged within the self-directed support legislation would sit well the intentions behind the Public Bodies Bill.

There is however, real ambiguity around where, how and how much resources will be transferred to achieve this shift. As highlighted by CCPS in its response, leadership from Scottish Government is lacking– it could have sought to integrate key budgets at strategic level before they are directed to local partnerships.

There is still an opportunity to consider this. There is also a potential opportunity to find ways to bring together Community Care Grants and potentially a 'devolved' Independent Living Fund along with other investments in integration and self-directed support. This would ensure a more connected pot of money which supports the goals of wellbeing and independent living – helping to achieve the upstream shift intended through Reshaping Care.[3].

In any case, restatement of the principles underpinning the self-directed support legislation at the front of the Public Bodies Bill could be a positive starting point.

A wider view of health and social care - Prevention and communities

Prevention and creating stronger communities must be central components in achieving integrated and effective health and social care services. A public service approach which puts people at the centre can be more efficient, and support lasting outcomes. This is because it reduces duplication in provision, and allows better availability of the right services at an earlier, more cost-effective stage.

Putting people at the centre therefore sits at the heart of a preventative approach. If this is coupled with a community-based approach to prevention, it will unlock a much wider range of community-based activities. These activities include lunch clubs, self-help groups, art and sport therapy, community transport, care and repair, befriending etc. All of these activities support people and help them to achieve their aspirations and quality of life, long before they get to the stage of needing formal health or social care. A strong example is the economic and social value of support to unpaid carers – there is an increasing evidence base that shows how this can prevent/delay statutory intervention and admission to emergency and institutional care, both for the carer and for the disabled person[4].

There are many examples from the work of the third sector which illustrate the value of strong communities and preventative approaches. One such example is the Foodtrain 'shopping plus' service for older people and their carers. An evaluation of this highlighted that it was *"…a well targeted, effective and flexible service that ... generates high value outcomes for customers and fulfils a critical role in supporting them in their desire to retain their independence….* ***Its economic value in delaying the onset of higher-cost packages of care is highly significant..****"*[5]

We urgently need to develop and invest in community infrastructure of this sort to reduce the need for formal services or to facilitate a swift return to the community. Public sector procurement should be supporting and nurturing such initiatives instead of creating a more challenging environment for them.

[3] http://www.scvo.org.uk/policy/briefings-and-consultation-responses/response-self-directed-support-regulations-consultation/

[4] http://www.carers.org/news/value-carers-services-put-%C2%A3814m-year

[5] Co production – What it is and how to do it (Governance International/JIT, 2012)

It is not clear how the provisions in the Bill will, of themselves, accelerate investment in community capacity, prevention, and sustainability or provide a more joined-up approach between health and care services at the front line. This is a major omission which risks seeing effort and critical time being wasted on an institutional reconfiguration with no purpose and no real change of approach or outcome.

Question 2: To what extent do you believe that the approach being proposed in the Bill will achieve its stated policy objectives?

The Bill might perhaps encourage the conditions and possible structures and infrastructures which facilitate a redirection of investment into communities and the provision of seamless services but this is not guaranteed. There is a real sense of complexity emerging in this bill, alongside already complex structures being set up in anticipation of it coming into force. Local statutory partners continue to set up 'shadow' partnerships in anticipation of what might be "in scope" for integrated services. We are in danger of replacing a mire of bureaucracy for funding and service arrangements with a newer and more convoluted version of the same.

With the potential to create greater confusion, worry and stress for families and carers, there is a real risk that the policy intention to "support improvement of the quality and consistency of health and social care services"[6] may not be achieved. In turn this could create further demand on already stretched third sector services such as independent advocacy.

There are no provisions in the Bill which will ensure that resources are used effectively or efficiently - only an assumption that joint working will make this possible. It is also worrying that, as outlined above, the amount and direction of resource shift is not detailed.

A particular concern is that despite the positive contribution of the third sector to Reshaping Care – and its considerable role in health and social care - it will have no say in decisions around those resources and perhaps a limited role in planning service delivery. Ministers have frequently, in recent months, expressed their admiration for the creative and transformative approaches taken by voluntary organisations to meeting the health and wellbeing needs of people and communities. Yet, the Bill does not channel this much needed expertise into the planning process with anywhere near sufficient authority or centrality. We are in danger of being left with a new version of the old planning system built around existing institutional interests, where any positive developments which brought the third sector to the table could potentially be lost.

Meeting the demographic challenge and dealing with the increasing number of people with longer term and often complex needs requires a whole suite of changes to policy, practice and service configuration – the Bill could have provided a starting point for this, beginning with a strong understanding of how the Reshaping Care for Older People Change Fund has – or has not – made any difference in terms of moving more towards prevention and capacity building.

[6] http://www.scottish.parliament.uk/S4_Bills/Public%20Bodies%20(Joint%20Working)%20(Scotland)%20Bill/b32s4-introd-en.pdf

Question 3: Please indicate which, if any, aspects of the Bill's policy objectives you would consider as key strengths?

Question 4: Please provide details of any areas in which you feel the Bill's provisions could be strengthened.

We have provided responses to these questions above.

The question we should be asking ourselves is *what cannot be achieved without this legislation*? We have to ask whether the legislation in its current state will make any real difference to the quality and consistency of care for people given the points outlined in this response: the lack of recognition of the contribution of the third sector (above); the current state of social care (below); and the increasing sense that services are "done to" and not "with" people.

The Local Government Committee's recent report on public service reform would certainly back this assertion:

"The best examples of PSR arise when local communities and front-line staff are fully engaged in the process of designing and procuring services. We are sceptical of the value of top-down or centrally driven changes to services."[7]

The Local Government Committee also highlighted a number of challenges and practices which prevent real reform of public services and which must be considered in the context of health and social care integration, namely:

- Public investment in earlier attempts at partnership working has meant little real improvement in services or prospects for some of our most disadvantaged communities.
- Very deep-seated attitudes and behaviours that will take time to change.
- There is little evidence of significant real progress in PSR being delivered (e.g. through Community Planning Partnerships).
- The need for improvements in communication at all levels – an issue raised consistently by communities and front line staff. [8]

It is clear that the Public Bodies Bill has a lot to do. We need to ask if the Bill in its current form will tackle a culture where resources in one sector or service are 'protected' sometimes to the detriment of an individual or family's wellbeing. Ministerial intention may be strong, but it is not carried through in this draft Bill, and that may not be enough.

[7] http://www.scottish.parliament.uk/S4_LocalGovernmentandRegenerationCommittee/Reports/lgr-13-09w.pdf

[8] Ibid.

Question 5: What are the efficiencies and benefits that you anticipate will arise for your organisation from the delivery of integration plans?

The question should be “how do we secure sustainable health and care provision?” We can only do this by reducing demand for formal services through a much greater appreciation of the role of strong communities, self and mutual help and high quality social and housing infrastructure. Integration plans which focus on providing services to people in need and only on traditional views of heath social care will not be enough. We must see the wellbeing of people more widely e.g. as cuts to local transport services bite, people will become more isolated.

If the Bill is to achieve its goals, then it is essential that the make-up of local partnerships takes us beyond the planned split between health and local authority representation. This approach sends inauspicious messages about power, responsibility and control which are the very opposite of the intentions behind integration. What matters in the future provision of health and care services is that local, user and carer groups and public interests have much greater involvement and shared ownership of plans and services – and not just at local level.

We are particularly aware of the emergence of an inconsistent narrative surrounding the involvement of the third sector - a full and necessary partner at the top table of Community Planning - yet it is viewed only as a set of interests to be consulted and engaged in the development of local health and care plans in a process which is dominated by statutory interests. The sector and stands ready to do so despite the challenges it faces.

In terms of efficiencies, as things stand, the sector risks having a marginal, yet resource intensive involvement in complex bureaucratic structures. Where health and social care structures do not mesh with community planning structures we will see duplication of time and effort and the diversion of resource from the main purposes of the third sector. With significant improvement - including clarity about the relationship with community planning, full involvement of the third sector at strategic levels and a structural facility and willingness to redirect investment - efficiencies are possible.

Question 6: What effect do you anticipate integration plans will have on outcomes for those receiving services?

This really depends on the quality of the plans and the willingness of local statutory partners to work inclusively and strategically with the third sector and the people affected by these planned changes, and to make determined shifts in how public resources are invested. It will also depend on how involved the third sector and service users and carers are in determining the national health and wellbeing outcomes which will be the goals that partnerships will strive to achieve.

Experiences from the Change Fund and Change Plan processes have been mixed whilst early development of strategic commissioning plans illustrates how far there is to travel in developing sustainable approaches to health and care provision in the future. But we mustn’t lose any positive achievements within this context.

If the integration plans mean more of the same and a refusal to tackle tightening eligibility criteria, charging and the loss/reduction of services which are essential to enabling people to live independently then we have lost an important opportunity. This is not about delayed discharge or bed blocking – we must remember the assets, ability and contributions of people

receiving support through health and social care. That should be the starting point for this legislation.

We need also to consider the potentially strong clash of cultures that could occur in the move towards more integrated services - one service is free at the point of use (NHS) and another has charging inherent to it coming together.

Wider feedback

Business Regulatory Impact Assessment

Read across to other legislation:

The linkages between this and other legislation e.g. Children's Bill, self-directed support, and welfare reform policy and legislation are not clear or missing.

There is a risk that the focus on structures, finance and process inherent in the Public Bodies Bill could divert attention away from implementing the self-directed support legislation. On the other hand, integration could potentially provide opportunities to consider how self-directed support could operate in a health context e.g. purchase of more 'personalised' equipment and adaptations, therapies etc.

Welfare reform:

The **impact of welfare reform** on the Bill and subsequently on services which will be delivered under new arrangements is largely absent. There is the likely impact of welfare cuts on income from charging, but, more importantly, the effect of recent benefit changes on the health and wellbeing of people and communities – many of who are already vulnerable and face challenges to their own wellbeing.

Guidance issued to health boards via the Scottish Public Health Network (ScotPHN) provides some sense of what this impact could look like.[9] The transfer to Personal Independence Payment (PIP) and the potential devolution of the Independent Living Fund are 'ones to watch' in terms of increased demand on already stretched services across the third and public sector.

As such, we would suggest that it would **be worth revisiting the linked Equality Impact Assessment in light of our understanding of how welfare reform will affect people receiving services and their families.**

The Deep End report which engaged GP perspectives on austerity and welfare reform[10] remains a powerful summary of the impact on health and social care services – but it also highlighted how demand for support from the third sector is increasing as statutory services struggle. Recent work carried out by SCVO[11] suggests that almost 90% of respondents in a recent mapping exercise expect demand for support to increase because of the welfare reform programme.

[9] http://www.scotphn.net/pdf/2013_04_16_Final_Guidance_on_UK_Welfare_Reform.pdf

[10] http://www.gla.ac.uk/media/media_232766_en.pdf

[11] http://www.scvo.org.uk/scvo-media-release/media-release-investing-in-frontline-community-groups-is-best-way-to-mitigate-the-impact-of-welfare-cuts/

Welfare reform creates a perfect storm for third sector organisations – not only are some being diverted from their core purpose, but the potential changes which the Public Bodies Bill will bring present yet another challenge for the third sector in a difficult operating environment.

Challenges to engaging in integration:

Involvement of the third sector in development and scrutiny of strategic and locality plans and delivery is critical to success given the experience, knowledge and skills it brings in the wider field of health and social care. Other responses to the call for evidence e.g. Voluntary Health Scotland, Health and Social Care Alliance will emphasise this important point.

The sector will also need to change how it works, and any changes to commissioning and procurement that result from integration developments could have a substantial and potentially negative impact.

Yet the sector continues to face significant financial challenges. SCVO and CCPS research to examine these will be published soon and some early findings highlight that:

- Funding packages rarely make provision for annual inflation.
- The overwhelming majority of respondents (83%) said that they did not receive an annual inflationary increase – many report that budgets have been static for many years, with many experiencing often significant budget cuts.

In addition, procurement practice in Scotland presents significant challenges to funding and the day to day operation for many organisations across the sector.[12] The fact that many may face extensive procurement exercises for short term contracts is one specific challenge highlighted by our members in the research outlined above.

Given the context described above, the capacity of third sector organisations to engage effectively in the journey towards more integrated services could be reduced. With less room for manoeuvre, it is therefore worrying that the Financial Memorandum says that:

"Third sector partners will also be expected to consider efficient and effective use of current resources and funding streams to enhance their own capability."[13]

Whilst the pot of money directed at the sector within the Financial Memorandum to tackle these issues is welcome (£360,000) it's worth comparing this to the £3million set aside for clinicians' involvement in locality planning.

More positively, the bill and the development of integration plans present an important opportunity to realign how we commission and procure a wide range of services and interventions which drive a more preventative approach and focus on wider outcomes and wellbeing - not a narrowly constructed review of health. As CCPS outlines in its response to the call for evidence:

"If joint commissioning is effective and successful at a) prioritising more 'upstream' and preventative support that helps people to stay well and out of the care 'system, and b) embracing the (third) sector as a key partner in the achievement of the national outcomes, then

[12] E.g. http://www.ccpscotland.org/assets/files/ccps/publications/FOImainreportCCPS2%20%284%29.pdf

[13] Para 64, page 34

we might see a greater involvement in investment and activity" – i.e. the sector could play a significant role in achieving the outcomes.

We need further discussion about how we support that role.

Conclusion

A strengthened bill could provide a framework for reshaping how health and social care operate. However, we will also need better investment in preventative support, community interventions and local infrastructure and services which actually make a concrete difference in people's lives. This means that we need to see health and social care more widely – where do housing, local environment/planning systems, transport and so on play a role in helping people to remain independent and to stay connected to their communities, jobs and each other? This is where the third sector has much to contribute.

Achieving any nationally agreed outcomes relating to health and wellbeing must recognise the wide range of enabling support which can be accessed via self-directed support and non-traditional approaches and interventions – these equally have tangible benefits and outcomes relating to health and wellbeing and must feature strongly in integration planning and delivery.

Activity to bring health and social care together, to improve quality and outcomes of support will fail unless all key partners are around the table. This includes voluntary, charitable and other supports as outlined above.

Real change in the experience of all who use health and social care services will not come from legislation or restructuring alone. Cultural change is needed; we need less risk aversion in service provision and more effective communication across sectors and between professionals, individuals and families. Involving the people who matter most in planning and shaping integrated services – disabled people, older people, unpaid carers, families and local communities – strategically and in delivery and monitoring is key to success. Their own aspirations to live well, to work, to take part in their local communities must be the starting point and main driver of this legislation.

Across the third sector, many of us feel that the Bill's provisions need to be stronger in order to achieve this shift in focus in policy and in practice. We will work with colleagues across the third sector and the Scottish Government and the Parliament to make this happen.

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About us

The Scottish Council for Voluntary Organisations (SCVO) is the national body representing the third sector. There are over 45,000 voluntary organisations in Scotland involving around 137,000 paid staff and approximately 1.2 million volunteers. The sector manages an income of £4.4 billion.

SCVO works in partnership with the third sector in Scotland to advance our shared values and interests. We have over 1300 members who range from individuals and grassroots groups, to Scotland-wide organisations and intermediary bodies.

As the only inclusive representative umbrella organisation for the sector SCVO:

- has the largest Scotland-wide membership from the sector – our 1300 members include charities, community groups, social enterprises and voluntary organisations of all shapes and sizes
- our governance and membership structures are democratic and accountable - with an elected board and policy committee from the sector, we are managed by the sector, for the sector
- brings together organisations and networks connecting across the whole of Scotland

SCVO works to support people to take voluntary action to help themselves and others, and to bring about social change. Our policy is determined by a policy committee elected by our members.[14]
Further details about SCVO can be found at www.scvo.org.uk.

References

Scottish Voluntary Sector Statistics 2010, SCVO
www.scvo.org.uk/evidencelibrary/Home/ReadResearchItem.aspx?f=asc&rid=1078

[14] SCVO's Policy Committee has 24 members elected by SCVO's member organisations who then co-opt up to eight more members primarily to reflect fields of interest which are not otherwise represented. It also includes two ex officio members, the SCVO Convener and Vice Convener.