In advance of the Debate on Tuesday 16, 2021 regarding the recommendations and findings of the Independent Review of Adult Social Care, published on February 4, 2021, Scottish Care wishes to share the following briefing with Members of Parliament from all political parties to inform debate. We are happy to be contacted with any specific queries or questions relating to Scottish Care’s views on the recent publication or any of its recommendations.

Scottish Care welcomes the Review report and believes it sets a positive and constructive approach to addressing the challenges social care faces, many of which Scottish Care has been raising for a number of years. It is imperative that action in relation to the Review recommendations is taken forward with the necessary pace and scale required; the time is now. Changes to adult social care as it currently exists will require cross-party and cross-sectoral partnership to achieve the changes we want to see. Whilst Scottish Care and others will have further questions and wish to raise additional considerations in relation to the Review’s recommendations, all parties should seek to engage constructively around the work required, rather than substantially unpicking the Review. It is in this spirit we will provide further articulation of Scottish Care’s response and considerations in relation to each of the nine recommendation categories identified by the Review.

About Scottish Care

Scottish Care is a membership organisation and the representative body for independent sector social care services in Scotland. We represent over 400 organisations, which totals almost 1000 individual services delivering residential care, nursing care, day care, care at home and housing support services. Our membership includes organisations of varying types and sizes, amongst them single providers, small and medium sized groups, national providers and family run services. Our members deliver a wide range of registered services for older people as well as those with long term conditions, learning disabilities, physical disabilities, dementia or mental health problems.

Working on behalf of a range of providers, Scottish Care speaks with a single unified voice for both members and the independent care sector. This includes staff working in and those who access support through independent sector care services. For the purposes of clarity and understanding, the independent sector covers private, charitable and not for profit social care organisations.

The Scottish independent social care sector (private, charitable and not for profit) contributes to:

- The employment of over 103,000 people, which is more than half of the total social services workforce, including approximately 5,000 nurses
- The provision of 90% of care home places for older people
- The delivery of over 55% of home care hours for older people
Role of the Independent Sector

As a result of extensive engagement and consultation, it is evident that the voices of those working and providing care home and homecare services in the independent care sector have been heard. Scottish Care has been amongst the most vocal in articulating the existing challenges and changes required to the sector as evidenced in our various research, reports and contributions to policy and legislation. Many of the points raised in the Review echo our report ‘What if and Why not’, detailing the need for reform in adult social care. We are pleased to see many of its findings, principles and ideas reflected in the Review and appreciate the Review’s contribution in recognising the diversity of choice in the care sector. With the independent sector clearly critical at all levels of the Review’s recommendations, we hope that the work Scottish Care continues to undertake – not least through our Care Futures programme – will provide some of the tools, expertise and energy required to ensure this Review doesn’t face its own implementation gap.

Scottish Care and many of its members in the independent sector, including organisations of all sizes and sectors, welcome the Review and have expressed commitment to being a positive and constructive partner in taking its recommendations forward.

This Review represents and sets out an opportunity for change founded on collaboration. We hope that different parties and stakeholders demonstrate the will to equip ourselves with knowledge and approach partnership in a non-partisan manner in order to achieve the social care that citizens deserve. The Review recognizes all partners which includes the independent sector, and we affirm we are willing to work collaboratively and in an integrative approach with all stakeholders as the Review outlines.

SHIFTING THE PARADIGM

Scottish Care defines social care as:

‘The enabling of those who require support or care to achieve their full citizenship as independent and autonomous individuals. It involves the fostering of contribution, the achievement of potential, the nurturing of belonging to enable the individual person to flourish.’

This is distinct from acute and emergency health care and has a wellbeing and prevention focus. We are currently presented with an opportunity to develop a new narrative on adult social care in Scotland, wherein it is seen as human right distinct from but complementary to the human right to health. We welcome the concept of a social covenant ensuring that everyone can get the social care support they need to live their lives as they choose and to be active citizens.

A human rights-based approach

We are pleased that the Review places human rights front and central to both to the delivery of care and support and the structures which enable support to happen. A human rights-based focus would significantly improve how social care is perceived, planned for and resourced, and must centre around supporting choice and independent living, thereby permitting individuals to realise their full potential. Having a choice of supports and being informed about that choice is critical to the implementation of a human rights-based approach to social care and we welcome the Review’s recognition of this. It is also
extremely positive to see recommendations relating to reform of eligibility criteria and charging, recording of unmet need and a focus on prevention and early intervention.

We believe further work is required to ensure that establishing a human rights-based approach also applies to budget setting and resource allocation at both the national and local level. The Scottish Human Rights Commission has published a number of helpful papers on the practicalities involved in establishing a human rights-based approach to budget setting and resource allocation. 1 Human rights-based approaches to participation, in governance structures, in regulatory and improvement work must also play a significant role in enabling personal autonomy. It will be important to ensure that there is due recognition that human rights-based approaches can have benefit to the individual using social care and support services but also the systems and structures of the social care system.

We support the Review’s recommendation to incorporate international treaties into domestic legislation. Gaps persist with respect to the protection of people's rights in social care settings: we must continue to maximise individual choice and consider the impact and benefit of the potential inclusion of the UN Convention on Economic, Social and Cultural Rights into Scottish legislation, thereby arguing for the development of a human right to social care as part of the incorporation of a ‘right to health’. The provision of clear definitions of the intersection of human rights and social care is integral in the future of adult social care in Scotland, and Scottish Care sets out further evidence on why and how social care can be incorporated effectively and practically into human rights in our 2021 paper Human Right to Social Care.

Finance

The vision articulated within the Review will demand considerable fiscal investment, whether it is in the developing of new models of support and care which are more citizen-led, investment in new supports around the education and professionalism of the care workforce, or in the raising of Fair Work standards. All this will require considerable resource and we believe that the Review could be bolder and more ambitious in its recommendations in this area to truly reflect the cost and the mechanisms of financing its new vision of care.

The Review’s recommendations on the need to embed social care in economic recovery plans, to better consider demographic implications and to prioritise preventative approaches are all welcome and necessary changes. We agree that investment and focus on adult social care is a positive investment to the Scottish economy and generates economic and social value. Through better preparation for when people do need more support and intervention, care at home and housing support services in particular have an essential and constructive role to play in the reorientation of planning, costs and delivery of proactive support.

We are disappointed that further steps have not been considered around how to make funding more equitable for citizens accessing any element of social care support, including care homes. We would like to believe that a National Care Service could develop more innovative, inclusive and equal fiscal fairness around accommodation costs. Moreover, the location of someone receiving care -whether in a care home or care at home- shouldn’t limit individual choice or control. Transparent and open communication regarding finances would be inclusive and useful and the independent sector has been keen to promote transparency in this space so that more equitable and sustainable cost models can be developed, as called for in the Rights At Home report. We also believe that revenue raising options must be

considered more fully as a priority, via further engagement and collaboration with the public and all stakeholders and must set out the positive case for further societal investment in social care, which should be seen as a public good.

Scottish Care recognises the importance of care provider organisations - regardless of their business model - being able to give assurance that public monies are being utilised for public good and that any return or profit is appropriately invested to further that good, allowing continuous improvement and development of services, whilst still ensuring organisations are sustainable and able to attract external funding. We are committed to working with other stakeholders to ensure such contracts and models that may require to be developed are appropriate and equitable, achievable and transparent.

**STRENGTHENING THE FOUNDATIONS**

**A new approach to improving outcomes – closing the implementation gap, a new system for managing quality**

The Review is accurate in its findings that effective and consistent implementation is often lacking for what is progressive social care legislation, not least around Self-Directed Support (SDS) and Health and Social Care Integration. The need to close the implementation gap is the right one. Scottish Care sets out in a number of reports how this can be achieved in relation to SDS in the Rights at Home report.

The Review sets out relatively bold recommendations around the role of regulation. We believe these are positive developments if considered carefully and implemented properly. The current focus on regulation, predominantly through inspection and reporting, does not support quality improvement, development or innovation in social care and therefore the move towards a quality improvement model rooted within the social care sector, and not from an exclusively clinical or medical design is welcomed. What will be imperative, however, is that the expertise of social care regulators informs this, alongside other bodies and partners. As previously articulated, social care is distinctive from health care and imposing a health-designed approach in a social care context would be inappropriate and ineffective. Users of and workers in care services are intrinsic to the design improvement models and approaches.

We are concerned that the assessment of safety and quality in care homes contained within the Review is premised on the limited experience of the pandemic, rather than the normal reality of care home provision. Whilst this does not detract from important learning regarding care homes in 2020, it points to a time where quality and assurance processes have been focused on a very specific and clinical assessment and have disproportionately highlighted issues rather than the many examples of high quality and safety that have been maintained during an unprecedented time. Continuous improvement and development should be a core element of all social care provision and regulation but must also be linked to commissioning processes, resources and wider support.

**Fair Work – Workforce Value**

We support and welcome the recommendations to deliver Fair Work in social care and support via a National Care Service. We are committed to ensuring that the social care workforce is better recognised, valued and rewarded for the critical skills and commitment
they exercise and support a national approach to providing consistent oversight, terms and conditions regardless of sector

The equality of treatment for those in the workforce – within job roles and profiles and through streamlined career pathways would support the valuing of social care workers and foster skills development and support, similar to pathways followed by health care professionals in the NHS. There are challenges with the current qualification system, wherein there is a one size fits all approach and the process of obtaining the qualification award itself is costly. Worker voice must be recognised and supported in a manner that reflects the diversity of the workforce and organisations, including employee-owned models. Focussed improvements, reform and solutions through national oversight is a pleasing change.

It would be beneficial for the Scottish Social Services Commission (SSSC) to work with Scottish Care, partner organisations, employers and managers themselves to explore alternative yet meaningful ways in which the competencies of service leaders can be secured and developed without compromising other elements of care provision and wellbeing, whether that is the sustainability of services or the mental health of managers.

Scottish Care has previously made similar recommendations in The Experiences of the Experienced around reviewing registration categories, job titles and implementing broader terminology in order to reposition social care work as the high skilled and diverse career that it is in reality. Training of care workers should reflect the increasingly complex skills and [clinical] requirements of the role. The areas of skills development and a growing greater autonomy of frontline workers requires significant investment of resource and research.

Our Bringing Home Care report highlighted the ways in which supporting increasingly complex care needs and a growing older population requires additional levels of financial resource for the adult social care workforce. It is therefore a shortcoming of the Review’s recommendations that a more aspirational approach to workforce pay is not suggested, focusing instead on a 20p increase to the Living Wage. As Scottish Care has long highlighted, the skills and dedication of care staff must be reflected in a greater societal valuing of social care work, made meaningful through pay rates. We must raise the ceiling rather than the floor, which the Review recognises but provides little direction on how this should happen.

Unpaid Carers

Whilst Scottish Care does not represent unpaid carers, we recognise them as an essential part of social care in Scotland and key partners in the care network of an individual. The expectations and increased demand of skill involved in care warrants better representation in public bodies for those that provide care, including unpaid carers as well as those working in the independent and third sector.

As stated in the Review, there is a need for a reinforced requirement for equality and fairness of approach and treatment across all partners in the social care sector, including different providers and informal carers. In doing so, this advances human rights for all.
REDESIGNING THE SYSTEM

A National Care Service

Scottish Care welcomes the proposal of a National Care Service (NCS). A NCS can drive consistent, high quality social care support if developed in partnership with both people who have a right to receive that support and the social care workforce and providers if its role and remit is clear. We are presented with a crucial opportunity to improve relationships and understanding, and to rightly elevate social care to be on par with NHS Scotland in terms of leadership and accountability.

We believe the creation of a Social Care Minister role is a valuable one and should be instated at the earliest opportunity. We would also contend that inclusion of social care within a Cabinet Secretary title (for instance Health and Social Care) would further enhance the status of this sector.

It will be important that the creation of a National Care Service does not become an exercise in additional bureaucracy and processes, and instead a vehicle for collaboration, transformation and bridging the implementation gaps identified in the Review. It must build on the learning from Health and Social Care Integration and the establishment of Integration Joint Boards (IJB) and learn the lessons of what enables true effectiveness, engagement and partnership, including retaining a focus on people and individual outcomes. Having had several decades where the responsibility for social care has been devolved exclusively to local levels, we recognise the time is right to redesign that relationship and to ensure consistency of approach and equity of provision, regardless of geography or local circumstance. It is clear to us that, despite the contention of others, the last three decades where social care was primarily the responsibility of local authorities in its commissioning and contracting and in the implementation of key legislative changes such as Self-Directed Support, have not succeeded. We therefore agree that there is an urgent need for central leadership, organisation and management which is sensitive to, informed by and oriented around the needs of those who use care and support in the primary instance. We believe the creation of a NCS provides appropriate national quality with local flexibility.

We support the Review’s assessment that nationalisation is not an effective or desirable route through which to achieve the changes required for social care in Scotland on both quality and fiscal grounds. The shared ambition that exists to have assurance of quality, equality and value can be achieved most effectively through a balance of national consistency and direction with local flexibility and choice, building in transparency and shared accountability throughout the system. It will require partnership with all sectors to achieve this, and the associated paradigm shift outlined in the Review.

It is necessary that the independent sector is represented fairly at the IJB level to improve fair work, collaboration and procurement. We agree that existing national care and support bodies should be evaluated to ensure they are fit for purpose. The independent sector is ready and willing to work with all political parties and individuals to inform and collaborate on the journey ahead.

Models of care

As a sector we want to affirm that care homes have a critical role in the future of adult social care, and we want to build on the learning from innovative models of residential care currently being developed in Scotland and internationally. There is still a role for care homes
in the future and independent living does not mean living alone. Moreover, residential care and living in a care home should not be equated with living in institutional care (as the Review states). We must continue to provide all options for people and be reminded that we are currently operating during a pandemic and feel social care is being looked through a narrow lens.

We welcome learning from innovative models; the Review points to other Scottish examples (e.g., Home Share model), which we support and believe that there is a need for more options for people in terms of living and support arrangements. This is not to say the models proposed should replace existing ones, as current models can be adapted to better reflect changed needs. We recognise the requirement for a balance of care options. There must be recognition of the increasing dependency and needs of people as they live longer and with multiple comorbidities. There will always be a need for high level nursing care which is best met and achieved through creating homely settings which are non-institutional in nature. Care homes need investment to meet the design and needs of modern Scots.

Social care and care homes should be viewed as an approach and model of lifelong care planning and delivery, rather than simply a setting and place of care. Social care has a distinctive role, warranting space for further integration and inclusivity. Different definitions of care can exist alongside one another and more consideration should be given to people of different ages and conditions. As previously outlined in Agenda for Care, there must be support for innovative models of care that meet current demographics, such as fiscal challenges; shifting the balance away from the acute sector to prioritise preventative care; maintain individual independence and social connectedness; and deliver on social care outcomes. There is also opportunity to welcome the recognition of the use of technology and digital access to enhance social care.

**Commissioning for public good**

The Review [rightly] argues for a dramatic revolution in the way in which we commission and procure social care services. Removing competition and replacing it with collaborative, responsible and ethical approaches should include those who are the primary purchasers of care – citizens themselves. In a homecare context, the details of this will be important and we hope to see a radical shift adopted as a result of the Review away from punitive and restrictive approaches, such as Time and Task. We welcome further engagement with the sector on how reformed and rights-based commissioning is implemented. We believe that there is a significant contribution to be made by human rights in developing more equitable, participative and inclusive models of commissioning; see our comments on this in our blog.

National commissioning principles should be developed to guide the creation of local commissioning frameworks and processes that strengthen diversity of delivery models and are tailored responses to delivery of support, with the inclusion of a human rights-based focus. Significant consultation should also be incorporated at every stage of the commissioning process to address the inequity of diagnosis-dependent financial support across health and social care which is creating a two-tier system. Processes must also tackle the issue of access to and choice of support based on cost assessments and urgency of need, as eligibility criteria becomes higher and more subjective, as noted in the *What if and Why not* report.

Commissioning processes also need to support and sustain the development of the workforce, including through the resourcing of learning opportunities. Regulatory and
continuous professional development expectations upon the social care workforce must be reflected in commissioning with time, support and mentoring appropriately built in.

Commissioning and procurement reform must ensure an end to the discriminatory treatment of those who live in care homes where to date few have been able to benefit from the individual autonomy around budgets given to those who receive care in the community. The failure of commissioners to implement Self-Directed Support for those living in care homes requires to be addressed.

Conclusive remarks

We welcome the overall report and in the current context feel we ought to give full priority to the momentum behind improving the adult social care sector. Care services are in a state of real fragility and whilst the prospect of a National Care Service brings with it many grounds for optimism and renewal, we must ensure we continue to promote the immediate measures that the sector requires for sustainability. Ongoing and continued engagement with care organisations remains important.

We anticipate challenges with regard to the reformation and system change of organisations and bodies that oversee adult social care in Scotland. There are known challenges with Local Authorities and the IJB, such as the inconsistent and unequal approach across local health boards and authorities to accessing care options for individuals (such as those through SDS). We welcome the recognition of the need for a reformed system and the removal of bias from organisations that are not currently fulfilling their intended purpose. Further work is to be done in terms of commissioning cost-analyses, ensuring regulatory bodies work effectively in their communities and that there is wider representation for the social care workforce which can be achieved through working collaboratively.

We reiterate the commitment of the independent sector in helping achieve a positive change. As voiced in the Review, if not now, when?

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