Finance Committee

Public Services Reform (Scotland) Bill

Submission from CHILDREN 1ST

For over 120 years CHILDREN 1ST, the Royal Scottish Society for Prevention of Cruelty to Children, has been working to give every child in Scotland a safe and secure childhood. We support families under stress, protect children from harm and neglect, help them recover from abuse and promote children's rights and interests. We provide 44 services in 27 local authority areas as well as 4 national services including ParentLine Scotland which is the free, national telephone helpline for parents and carers, and ChildLine Scotland, which we operate on behalf of the NSPCC.

Overview

- CHILDREN 1ST general comments on the overall policy objectives;
- Some CHILDREN 1ST concerns regarding the order-making powers;
- CHILDREN 1ST comments on proposals to create SCSWIS and HIS.

CHILDREN 1ST's Response to Committee questions

The Committee is seeking views on the general principles of the Bill and in particular—

- The Scottish Government's overall policy objectives in introducing the Bill and, in particular, whether the Bill is likely to—

  "help simplify and improve the landscape of Scottish public bodies, to deliver more effective, co-ordinated government that can better achieve its core functions for the benefit of the people of Scotland"

CHILDREN 1ST welcomes the Scottish Government's aims to seek ways “to deliver more effective and coordinated government that can better achieve its core functions for the benefit of the people of Scotland”. We also support the policy objectives of this Bill to explore opportunities for public bodies’ improvement along with possible areas where simplification measures might help to realise those aims.

CHILDREN 1ST does not feel that the objectives of simplifying and improving are necessarily complimentary. Regarding the proposals brought forward in Parts 4 and 5 of this Bill, we are concerned that the pursuit of these policy objectives has instead resulted in a hastily manufactured merger of two new bodies rather than a synthesised realisation of these two objectives.

CHILDREN 1ST is additionally concerned that the policy objectives to simplify and improve may be designed to operate, at least at times, at cross purposes with one another as a result of proposals introduced in Part 2, sections 20-21 of the Bill, pertaining to the Government’s order-making powers. As an organisation that aims
to promote and defend the best interests of children and young people, we cannot agree that any moves to limit consultation opportunities with affected stakeholders can result in meaningful public service improvements, from a stakeholder perspective.

- **Whether the order-making powers proposed in Part 2 of the Bill are appropriate in seeking to deliver a—**

  “public sector landscape and public sector functions that are proportionate, responsive and efficient.”?

As an organisation that strives to represent the best interests of children and young people throughout Scotland, CHILDREN 1ST supports the Bill’s aim to deliver a “public sector landscape and public sector functions that are proportionate, responsive and efficient”. In order to best achieve this aim from the point of view of child and young person public body stakeholders, CHILDREN 1ST would welcome the inclusion of some additional safeguards on order-making powers in Part 2 of the Bill. In particular, CHILDREN 1ST is concerned that, if left unrevised, these powers could potentially result in a less responsive public sector landscape from the point of view of a child or young person stakeholder.

We acknowledge that the Bill sets out a procedure for ensuring that orders introduced by Ministers involve consultation with organisations deemed by the Ministers as being “representative of interests substantially affected by the proposals”, (Section 21.1), as well as with the public body itself. However, such orders would not necessitate any formal consultation with the general public. We are concerned by the potentially limiting impact of these changes on the role of public participation in Scottish policy making, and for this reason, we would welcome clarification on the manner in which the organisations deemed “representative of interests substantially affected by the proposals” would be identified by Ministers to participate in consultation.

CHILDREN 1ST is particularly concerned by the implications of Section 21.3 of the Bill, which could potentially enable the Government to forego consultation with stakeholders, the general public, and the concerned public body itself, provided that, “before the day on which this section comes into force, any consultation was undertaken which, had it been undertaken after that day, would to any extent have satisfied the requirements of this section”. Although parliamentary approval of the Minister’s order would still be required in these exceptional cases before any orders could be enforced, CHILDREN 1ST is not satisfied that this represents sufficient legislative review, particularly where changes affecting the core value and functions of a public body are being considered.

While CHILDREN 1ST appreciates the efficiency impetus behind these order-making proposals, we feel that the cost of this legislative short cut to the democratic process is not commensurate to the likely cost-saving benefits. CHILDREN 1ST would therefore welcome amendments to Sections 20-21 of this Bill to better ensure that stakeholders’ views, including child and young person stakeholders where a relevant public body is concerned, are consulted upon,
irrespective of whether a similar consultation has already been undertaken prior to this Bill’s passage.

- Whether the proposals in Parts 4 and 5 of the Bill are consistent with the five guiding principles recommended by the Crerar Review of public focus, independence, proportionality, transparency and accountability?

CHILDREN 1ST views the creation of these two new scrutiny bodies as a potential and welcome opportunity to reassert the importance of placing service users’ voices and experiences at the heart of any quality assurance system. This is something CHILDREN 1ST strives to do throughout our work on a daily basis.

From a child care and protection perspective, CHILDREN 1ST believes that the proposals in Parts 4 and 5 of this Bill represent a positive and welcome opportunity to reduce inspecting activity and increase reliance on self-evaluation backed up by proportionate inspecting as described by the new phase of HMIE Inspections. CHILDREN 1ST is pleased to note that the Bill proposes to remove some of the barriers to joint inspection and operation making it easier for all scrutiny bodies to cooperate and work together to inspect integrated services. We support the intended aim of this legislation to establish new scrutiny bodies that are more flexible, with powers to develop and publish standards and outcomes which will be instrumental toward this end. We also hope that the new bodies will build on the beneficial arrangements that the existing bodies currently have in place for involving service users and carers in their work.

CHILDREN 1ST has some concern regarding the amount of cohesion and integration provisioned for in the creation of SCSWIS and HIS. Our concern is that rather than creating a cohesive system of scrutiny, the Bill’s proposals may merely have succeeded to combine together the existing functions of the different social care and healthcare bodies without taking sufficient care to ensure complete and effective integration of the bodies’ respective systems and processes. For example, complaints can still be made about care services and about SCSWIS itself, however, not about any other part of the system. Another example is that enforcement powers are available to SCSWIS in respect of care services, but not to any other part of the system, which reflects the existing situation within the Care Commission and SWIA. As a result of the insufficient cohesion and integration provisioned for in the creation of SCSWIS and HIS, CHILDREN 1ST is left to conclude that Parts 4 and 5 of the Bill represent more of a missed opportunity than a plausible realisation of the Crerar Review’s five guiding principles.

CHILDREN 1ST is also concerned that the Bill has not taken the opportunity to expand the new bodies’ authority or remit to other areas of identified concern. For example SCSWIS and HIS will have no clout in promoting good practice or indeed insisting on improvements in commissioning and procurement processes even where these adversely affect service users.

Other CHILDREN 1ST recommendations regarding Parts 4 and 5 of the Bill include the following:
• CHILDREN 1ST is concerned that the proposals regarding how inspections ought to be carried forward may risk becoming overly preoccupied with “process”. Instead, these proposals could be strengthened with an increased emphasis on “outcomes”.
• CHILDREN 1ST would welcome assurances that the new SCSWIS will be more effective than the old bodies in terms of how relevant they were to normal business and how supportive and sympathetic they were in approach to their task.
• CHILDREN 1ST is concerned that the Bill does not extend the 'duty to co-operate' to local authorities, which would in turn reduce the burden of scrutiny.
• CHILDREN 1ST acknowledges that the efficacy of the new arrangements will depend on how quickly the staff can adjust to their new joint responsibilities.
• CHILDREN 1ST would welcome further clarification on the noted absence of any reference to the national care standards in Parts 4 and 5 of this Bill.

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CHILDREN 1ST