Introduction

The Convention of Scottish Local Authorities (COSLA) welcomes the opportunity to provide evidence on the Public Services Reform (Scotland) Bill.

Proposals for better, more streamlined scrutiny, and to reduce the burden on councils, are part of the package of measures agreed within the Concordat between the Scottish Government and COSLA. We are ambitious about what can be done to improve the way that scrutiny is conducted, and to ensure that it delivers real benefits for service users and communities. In answering this consultation, COSLA has therefore commented on both the specific provisions of the Bill, and on the wider trajectory of this reform agenda.

Key Points

- COSLA welcomes the broad direction of the Public Sector Reform (Scotland) Bill, and in particular the reduction in the scrutiny landscape which we believe is a positive step towards our overall aspiration for an absolute decrease in the volume and burden of scrutiny on councils;
- We consider the Bill to be a valuable and constructive endorsement of more risk-based, proportionate scrutiny which places accountability for service improvement with the service provider rather than external bodies;
- We support the introduction of duties to secure continuous improvement on scrutiny bodies as a recognition of the efficiencies to be achieved by better planning, joint working and sharing of information;
- We agree that the arrangements for Health Improvement Scotland and Social Care and Social Work Improvement Scotland have potential to drive longer term efficiencies in the costs of scrutiny bodies themselves (for example, through better shared services and coordination). While this might in turn reduce costs for councils by allowing some resources to be redeployed into service delivery, we are not yet clear whether this saving will be in the order of magnitude that we expect;
- We believe that scrutiny bodies will have a role in supporting service improvement, but we do not anticipate that these become improvement agencies in their own right;
- We continue to pursue our longer-term ambition to extend reform with a view to creating a single body responsible for all audit and scrutiny, in line with the Crerar Report.

The public sector reform agenda needs to be in line with the clear intent of the Concordat to reduce rather than increase burdens on Local Government, and support its governance, structure and organisational arrangements. It will be imperative that the new arrangements articulate fully with Single Outcome Agreements, and strengthen rather than diminish local democracy. In this context
it is vital that sound oversight arrangements are in place. COSLA welcomes the engagement that has already been achieved in the reform of scrutiny, and expects that a similar level of engagement would be required to ensure the successful implementation of the Bill in a way in which all stakeholders can subscribe to.

1. 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"

COSLA believes that at its core, the public sector must be configured in such a way as to clearly enable better outcomes for communities. We recognise that external scrutiny will always be needed to provide independent assurance that services are well managed and fit for purpose, and that they deliver best value. However, COSLA has long considered the current landscape to be over-crowded, and argued that this has negatively impacted on the ability of service providers to focus on delivering efficient and effective public services.

COSLA therefore supports the overall policy objectives of the Bill to simplify and improve this landscape as a route to more effective and coordinated government. In particular, we recognise that the Bill will be effective in reducing the number of public bodies, and in ensuring that these work together more effectively.

We regard this to be a positive step towards delivering our overall aspiration for an absolute and sizeable reduction in the volume and burden of scrutiny on councils. However, COSLA believes that this positive direction of travel needs to be sustained beyond the specific provisions of the Bill in order to fully realise the long term benefits that are possible for communities.

2. Whether, in light of the current financial situation, this is the appropriate time to be pursuing both the Bill in particular and the wider public services reform programme?

The Bill is being introduced within a context of economic recession, and against projections of significant and sustained financial pressure on public services.

COSLA believes that scrutiny bodies cannot be divorced from the need for a leaner overall public sector, and for real savings to be achieved which free up resources for front line service delivery. All measures for providing assurance and driving improvement therefore need to be targeted in the most effective ways possible, and fully sensitive to the fundamental financial pressures being brought to bear on councils.

COSLA considers the scale and urgency of these challenges to make this an appropriate time to pursue the Bill, and a wider reform agenda which enables local government to effectively lead communities without the burden of unnecessary scrutiny.
3. Whether the simplification of public bodies identified in part 1 of the Bill is consistent with the policy objectives of the Bill?

We anticipate that these changes will have a neutral impact on service delivery from a local government perspective. We generally welcome the proposals as the start of a wider move to reducing and streamlining scrutiny, but would reiterate that further changes will be needed to deliver our ambition for a more far reaching impact on the delivery of local government services.

4. Whether the order-making powers proposed in part two of the Bill are appropriate in seeking to deliver a—

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

COSLA firmly supports Ministers’ commitment to secure a public sector landscape that is proportionate, responsive and efficient. We are keen to ensure that this simplification programme does not stop at merely reducing the number of bodies by 25%. In particular, COSLA has strongly endorsed the findings of the Crerar Review, and our expectation was that significant reform would take place to enable:

- a focus on outcomes rather than processes that reflects the spirit of the Concordat and Single Outcome Agreements, and places the needs of service users at its heart;
- greater weight to self-assessment and a burden that is proportionate to perceived risk;
- external scrutiny that empowers rather than disempowers elected members;
- a reduction in the overall size and complexity of the scrutiny landscape;
- a strategic approach which does not distract local government managers and staff from delivering better services.

Given the potential for significant cash and productivity savings, COSLA is keen for appropriate changes to the landscape to be brought forward as soon as possible. We realise that primary legislation is not always an appropriate mechanism for delivering this and therefore support the provisions in Part 2 of the Bill in the expectation that they will enable the further reform that we wish to see, and for this to take place in a coordinated and strategic way.

COSLA believes that the powers to improve the exercise of public functions are compatible with the spirit of mutual respect and partnership set out in the Concordat between Scottish Government and COSLA, and believe these can contribute to a reduction in bureaucracy and micro-management by empowering councils and their partners to deliver Single Outcome Agreements. However, we do not think that there is no scope to transfer or confer new burdens on councils without commensurate resourcing. COSLA would therefore expect a full and active role in connection to any proposed use of this power.
5 Whether the proposed duty on listed scrutiny authorities to secure continuous improvement in part 6 of the Bill is likely to ensure that users of public services are better involved?

COSLA believes that the essential test of effective service delivery is to listen to the views of service users and communities about the outcomes that have been achieved. In holding services to account, it is therefore crucial that scrutiny bodies are able to fully reflect the views and experiences of service users in their work. However, we believe that it is the responsibility of local government, through robust self evaluation and effective performance management, to be informed about and shaped by the views of stakeholders. Scrutiny bodies have a role in supporting this process, and in doing so, will help to ensure that the right evidence base is in place.

Our concern is to ensure that the proposed duty does not lead to scrutiny bodies duplicating or cutting across the work that is already done systematically by Councils to consult with their service users and communities. Care will be needed to develop a partnership involving scrutiny bodies and councils which builds and coordinates overall capacity in a strategic way, and ensures that there are synergies with existing engagement mechanisms.

We are pleased that the efficiencies to be achieved through better joint planning and delivery of scrutiny have been recognised through a duty, which reflects our anticipation that a single corporate assessment and shared risk assessment will represent a significant step forward compared to previous practice. This position also recognises that the delivery of better outcomes for service users and communities requires a range of interventions from a number of services – many of which are delivered by councils – all of which come within the ambit of Local Government and the BV2 audit. The extension of Best Value across the public sector, and the increasingly integrated delivery of services in areas such as social care and health, means that the scope for co-ordinated action and a holistic scrutiny approach is much increased.

However, while we fully support better coordination and joint delivery, we do not see this as a substitute for reducing the overall burden in real terms. Better delivery of scrutiny will not in itself ensure that the burden is fully proportionate and risk based.

6 Whether the proposals in parts four and five of the Bill (Social Care and Social Work Improvement Scotland/ Healthcare Improvement Scotland) are consistent with the five guiding principles recommended by the Crerar Review of public focus, independence, proportionality, transparency and accountability?

It is COSLA’s view that for the benefit of delivering shared, cross-cutting outcomes, building on and sharing good practice, increasing efficiencies, and reducing the burden and cost of scrutiny across the public sector equally, all publicly-funded bodies should eventually come within the orbit of a single scrutiny agency, in line with the Crerar Review report. Nonetheless, we accept that the
scale of the culture and organisational changes that this entails will mean that this reform programme will require development over the longer term.

We therefore support the creation of Social Care and Social Work Improvement Scotland and Healthcare Improvement Scotland, but as a transitional arrangement in the drive to reduce the burden of scrutiny. We would want to emphasise, though, that our preferred interim arrangement would have been for inspection bodies to focus on children’s and adult services, rather than splitting them along traditional education and social work lines. To us this seemed sensible given the prevailing policy direction of integrating children’s services through getting it right for every child. Under our proposal, for example, a reformed HMIe could take on the role of scrutinising all children’s services e.g. child protection, education and child health services. A second body would take on adult social care services and health services. Nonetheless, we support the broad move to establish the two bodies named above, as it is more important that the scrutiny bodies work together effectively if they are to deliver truly integrated scrutiny.

However, we are clear that the overall policy objective should remain the creation of a single body and believe that this Bill is a useful and effective staging post for this longer term ambition. Rather than an end in itself, we expect the Bill to increase the momentum for further incremental steps towards this.

Given that the work to determine the scrutiny mechanisms for these new bodies has not been completed, we are unable to comment on detailed implications for local authorities. Despite that, COSLA believes that accountability for delivering improvement rests with organisations themselves, and that self evaluation is the mechanism by which this should happen. We accept that councils need to demonstrate a robust performance base to enable this and that this includes a role for scrutiny bodies, but we do not expect these bodies to take on a significant ‘improvement’ remit which adds new layers of complexity to the landscape.

It is therefore imperative that the resulting procedures are practical and do not introduce burdens on councils. We believe that the Bill embodies the essence of this balance, but implementation will require ongoing engagement to ensure that an effective balance is struck between providing independent assurance and enabling local government to take responsibility for continuous improvement.

In achieving user focus, we are anxious that the challenges of joint working between scrutiny bodies wedded to specific ways of working are overcome, and we seek reassurance that there is capacity and expertise to undertake this in a way that recognises changing policy contexts. For example, the move towards personalised care arrangements will mean that regulation and inspection cannot only focus on the main types of care services (in the manner of Care Commission) and that systematic inspections (in the manner of SWIA) will need to place more emphasis on feedback from users. Scrutiny must support not impede improvement agendas such as better personalisation.

Given the work required to develop this, COSLA recommends that detailed discussions are held between COSLA, SCSWI, HIS, Audit Scotland, consumer
representatives and Scottish Government to identify the most effective way to proceed.

7 Whether the cost estimates set out in the Financial Memorandum appear to be robust and any comments on the other accompanying documents?

COSLA expects the new Health Improvement Scotland and Social Care and Social Work Inspectorate to accord with the overall commitment to reduce the cost of scrutiny, although we acknowledge that there will be some costs associated with the transition arrangements. Although no specific evidence of the projected savings for local government is provided, better coordination and planning of scrutiny is also to be welcomed in this respect.

However, the cost of delivering scrutiny does not reflect the very real costs of compliance. We believe that COSLA can work productively to fully deliver our mutual aspiration to develop a robust self improvement culture in local government, as the route to a significant reduction in the volume of scrutiny, the number of scrutiny bodies, and for there to be a more coordinated and cohesive approach to scrutiny within the new landscape. With councils under extreme pressure to maintain services, we do not believe that developing scrutiny bodies should be at the expense of resources that could be used for service delivery. Rather, we expect the Bill to deliver significant cost and productivity savings.