Finance Committee

Public Services Reform (Scotland) Bill

Submission from the Social Work Inspection Agency

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.’

The Social Work Inspection Agency supports the proposals for a single, unified system of inspection for social work and social care, as embodied in the Public Services Reform Bill. We believe that the bringing together of the three separate aspects of scrutiny currently delivered by the Care Commission, HMIE and SWIA into Social Care and social work improvement Scotland (SCSWIS) represents a rational and coherent way forward which should eventually improve the quality of scrutiny overall, accelerate improvement in services and eliminate duplication. Most importantly, it should lead to better outcomes for people who use services, provide more protection for vulnerable adults and children and a higher level of public assurance about standards and quality of care.

This will happen by integrating the current separate activities into a single approach. In this way, it will be possible to evaluate quality and support improvement throughout the journey of care for anyone who needs help from the point that they contact public services and are assessed, through to the provision of care and support in its different forms.

It will be possible not just to assess individual services, as the Care Commission currently does, or assess how councils commission and resource these services, as SWIA currently does, but to bring the processes together to gain a more complete picture.

All of the three agencies involved in the new body are currently concerned with the protection of vulnerable children and adults, which is multi agency in its focus, involving police, health, children’s reporter and others. SWIA is also directly involved in the scrutiny of important aspects of the criminal justice system, in its inspection of the management and supervision of high risk offenders, which includes serious violent offenders and sex offenders, in which there is coordinated work with Her Majesty’s Inspectorate of Constabulary, Scotland (HMICS) and Her Majesty’s Inspectorate of Prisons (HMIP). The new body should increase opportunities for all of this work to be carried out in a more streamlined and cost effective way.

Whether, in the light of the current financial situation, this is the appropriate time to be pursuing both the Bill in particular and the wider public service reform programme?
The direction of travel - to reduce the burden of inspection experienced by local authorities - is a direction that SWIA had already embarked upon. Prior to SWIA being set up in 2005 there was no routine inspection of Scotland’s social work services. We have now completed the first comprehensive inspections of Scotland’s thirty two local authority social work services. Using that baseline of information we had already begun to move to a more proportionate and targeted inspection programme to reduce the burden of inspection currently experienced by local authorities. As part of our inspection process we had asked local authorities social services to evaluate themselves. For many this was the first time they had engaged in such an exercise and it was evident that some needed to build capacity in this area. We have already begun to work with a number of councils at their request to do this.

The current financial climate is extremely challenging, and a 5.5% saving is already built into the transfer of resources to the new body. Most re-organisations cost some money initially and in the short term there will be issues around staffing, organisational development and investment in IT systems to deal with. There should be savings down the line as these organisations merge and streamline their different structures, methodologies and activities. In the longer term I believe these proposals will deliver a more effective and cost efficient scrutiny body. When local authorities move to a position where their own evaluations are both routine and reliable then scrutiny bodies could further reduce their involvement proportionately. It is however only three years since the first of SWIA’s reports was published and expectations of change of this order need to be realistic, though some are clearly more advanced than others.

Much of the Bill is focussed on creating 2 new bodies SCSWIS and HIS, with opportunities for better, more joined up inspection. However the public sector reform programme could potentially lose some opportunities for more effective scrutiny as it has not always sought to include all those who are important potential partners for SCSWIS. For instance the substantial part of HMie that remains as an Executive Agency and SCSWIS will need to work together closely in evaluating children’s services and SCSWIS will need to work closely with HMIP and HMICS in scrutinising criminal justice services. HMIE, HMIP and HMICS are referred to in that section of the Bill that addresses joint working but they have not been full partners in the wider implementation agenda, setting up SCSWIS and HIS.

_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?’_

One of Crerar’s key principles was independence and I believe the public both wants and deserves independent assurance about the services it receives. As it stands, Part 2 confers considerable powers on Scottish Ministers which might pose a threat to the continuation of independent assurance, if there was no opportunity for the wider involvement of the Scottish Parliament. I acknowledge that some sections are subject to pre-conditions and it will be necessary to ensure that these are sufficient to meet the Crerar Review’s emphasis on public accountability.
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?

We welcome and support the provisions of section 92 on user focus for scrutiny bodies. I believe that the new legislation will help to drive user focus in the exercise of scrutiny functions, but investment of time and financial resource will be necessary if this is not to be tokenistic.

I am aware there is very strong support from all of the stakeholders for people who use services and carers being more involved in the design and delivery of scrutiny and improvement activity.

At the moment SWIA involves people who use services and carers in every aspect of its work. We use their personal knowledge and experience to:

- focus attention on the consumer
- show we are mindful of personalisation / service user control
- concentrate the attention of senior managers on the service user
- utilise their abilities to cut through jargon

We pay our service user and carer inspectors for the work they do in recognition of its importance and their time commitment.

Some examples of SWIA’s commitment to involving people who use services and carers include:-

- **Involving looked after and accommodated children.** Extraordinary Lives (2006) was the culmination of six projects, which studied the lives of 100, looked after and accommodated children and children in kinship care and significantly influenced the direction of We Can and Must Do Better (2007). We learned about what mattered to them, what the ‘care system’ got right for them and how local authorities could be better corporate parents.

- A small group of care leavers wrote a summarised version of Extraordinary Lives, and made a long report accessible to other young people, their carers and families.

- **Involving young people who had been accommodated.** SWIA has involved young people who had been accommodated in three performance inspections in the later part of the programme. They have interviewed children’s rights officers and have run focus groups for young people.

- **Involving people with learning disabilities.** The multi-agency inspection of services for people with learning disabilities in Ayrshire was the first multi-agency inspection of adult services in Scotland. We had four inspectors who have learning disabilities. Each had their own support worker. These inspectors were involved in:
• developing the methodology
• planning the inspection
• the inspection fieldwork
• writing the report including an easy read illustrated version
• presenting the report

• Involving former substance misusers. The Grampian inspection commissioned peer research into the views of people who use services. People who had previously abused substances were recruited to the inspection team and were trained and supported by staff. They interviewed people who used services, and senior staff, and contributed a unique perspective to the inspection.

• Involving carers. From the outset in 2005, SWIA has been committed to involving carers as colleague inspectors on all inspection teams. We have worked with Carers Scotland to bring the added value of carer knowledge and insight, to the design and delivery of social work scrutiny. SWIA has received very positive feedback from its carer inspectors, local authorities, carer organisations and the Scottish Government for its groundbreaking work to involve carers.

Whether 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?

• public focus

SWIA strongly supports the public focus principle as reflected in the provision in the Bill, in sections 35, 41 and 90. This is consistent with SWIA’s current way of working with our strong focus on outcomes i.e. the difference receiving a service actually makes for the user. The user focus duty in part six, section 92 is consistent with the principle of public focus. SWIA carried out a survey of delegates at a recent event for users and carers – 99% of delegates agreed that people who use services should be more involved in scrutiny.

• independence

At the moment SWIA like HMIE is an Executive Agency and operates at ‘arms length’ from Scottish Government. Ministers agree SWIA’s inspection programme but do not influence our findings.

Significant differences will remain across the scrutiny landscape in the organisational status of different scrutiny bodies in the future. SCSWIS will be a non-departmental public body, HIS will be a special health board and HMIE will remain an Executive Agency. All of the bodies that scrutinise local authorities are independent of local authorities although the status of these scrutiny bodies varies, whereas NHS health care is scrutinised by a body directly responsible to the Scottish Government Health Directorate both currently and under the new legislation.
• proportionality

The only direct reference to proportionality in parts four and five of the Bill are the provisions for regulations about the frequency of inspections of care services and healthcare services. This is a change from the Regulation of Care (S) Act 2001 where the minimum frequency of inspections is stipulated in the Act. The PSRB provisions could mean that some care services are inspected less often than the current statutory minimum frequency – two inspections a year.

I believe it is right that the frequency of inspections is not on the face of the Bill but that this is determined by regulation. This will allow SCSWIS the flexibility it needs to respond to the changing operational environment and become both targeted and proportionate and ensure that scrutiny is directed towards those organisations and services which most need it.

• transparency

There is nothing on the face of the Bill about the content of inspection reports. It is right that this is not on the face of the Bill as again it is important that SCSWIS is allowed operational flexibility as to what is appropriate.

However it is important that potential users of services can read inspection reports and learn from them whether they would wish to use that service. SWIA currently write their inspection reports for the local authority as a basis for improvement although we have also produced short summary versions of our reports for wider consumption. The Care Commission write their reports primarily for providers. There is an opportunity in supporting regulations to make sure that potential service users have access to information that may help them choose an appropriate service.

• accountability

Schedule 7 of the Bill states that SCSWIS must publish an annual report on the exercise of its functions. This report will be laid before Parliament and sent to Scottish Ministers. Schedule 7 also specifies that SCSWIS must present annual accounts to the Auditor General. SWIA currently makes all of its reports publicly available, in hard copy and/or on its website. I believe this is an important principle to which SCSWIS should adhere.

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

SWIA was consulted about the cost estimates set out in the Financial Memorandum. The estimates provided, cover the main cost areas to create SCSWIS and assumed efficiencies, and appear to be based on reasonable best assumptions at the present time. However, until a detailed business model for SCSWIS is produced by the new Board and senior management team and it becomes clear which staff might transfer (voluntarily or compulsorily) to the new body, it has only been possible to identify a broad expectation of costs across a range.
The bulk of the estimated cost is the harmonisation of staff terms and conditions, including pay, pensions and any voluntary early severance payments. SWIA staff (and the relatively small number of HMIE staff involved) will be most affected by this since these staff would lose their Civil Service status and transfer to less favourable NDPB terms and conditions. It is not possible to provide actual harmonisation costs until individual staff decisions have been made and a pay remit for the new body decided. However, it is clear already that the majority of SWIA administrative staff and some inspectors will look to avoid transfer by applying for vacancies within Scottish Government and elsewhere. This would have the effect of reducing the eventual harmonisation costs although there will be other significant consequences to this.

The new body should in the long term deliver business efficiencies through both reduced staffing and business synergies and the suggested figure of 5.5% of gross budget should be achievable. Again, however, this figure has had to be based on precedent and informed assumption until detailed modelling is carried out.

There may be additional costs associated with involvement of users of scrutinised services in the design and delivery of scrutiny functions which is a commitment on the face of the Bill (Part 6.92(20)). SWIA has considerable experience of involving and working with people with learning disabilities, ex substance misusers, carers and young people who have direct experience of the care system. We strongly support the principle but if people who have direct experience of using services are to contribute effectively to scrutiny they need careful preparation and support and in respect of people with certain disabilities and conditions, individual personal support may also be required. SWIA also pays a fee. Again until more detailed modelling is carried out it is not possible to be clear about additional costs including the development of IT systems resulting from this important commitment.

**Implementation issues**

Whilst SWIA is fully supportive of the proposals contained in the Bill, we do not underestimate the significant practical challenges of implementation in a short timescale. Since SWIA as an organisation will be changing status from a government agency to an NDPB, this has serious implications for staff, some of whom have spent over thirty years in the civil service and do not wish to leave. This is particularly the case amongst administrative staff, statisticians and project management staff, all of whom are essential to the effective running of the organisation as it is now and as it will become in the single body.

We are therefore particularly concerned over the next 18 months to ensure that the business continuity of SWIA is not jeopardised and that we can continue to provide the high quality of scrutiny, public assurance and evidence-based advice to Scottish ministers that we have delivered since our inception. Many staff have already intimated their intention to seek other opportunities within the Scottish Government since there is no guarantee of redeployment.
Creating a new organisation with a new culture and ethos will pose greater challenges for the leaders of SCSWIS if few staff from SWIA and HMIE eventually transfer to join with Care Commission staff who at more than six hundred are by far the largest number.

Apart from that immediate issue, there are several others which will need urgent attention if the transition to the new body and the realisation of its potential are to be successfully achieved.

These include:

- Appointment of Chair, board members, and chief executive
- Organisational structures
- Staffing
- Accommodation
- Information and computer technology including data security
- Organisational development

There are a further range of issues about the working methods of the new body, the balance of activity between scrutiny and improvement, user and carer involvement, commissioning new scrutiny, and the relationship with the work on shared risk assessment currently being led by Audit Scotland which also need to be addressed.

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