Finance Committee

Public Services Reform (Scotland) Bill

Submission from Highland Council

This submission does not constitute the Highland Council’s formal position until this submission has been approved at the Council meeting on 3rd September, 2009

Simplification of Public Bodies

In general terms the Highland Council welcomes the simplification of the public sector landscape from both the point of view of the public users of services and from point of view of maximising cost efficiency.

In relation to the specific proposals, the Council considers that it is sensible to transfer the functions of the Deer Commission to Scottish Natural Heritage (SNH) especially as the Deer Commission specific role is undertaken on the wider scale by SNH in relation to biodiversity, nature conservation and habitat management. SNH are already closely involved in deer management and bringing these organisations together would enable one organisation to address deer management impacts on access and rural land use.

With regard to the advisory bodies that are proposed for dissolution, the Council does not envisage any particular problems with the proposed alternative arrangements.

In relation to the proposal to delegate Ministerial functions under Section 7 of the Industrial Development Act 1982 and Section 5 of the Science and Technology Act 1965 which are designed to consolidate the delivery of national business grants within Scottish Enterprise the Highland Council would suggest that consideration should be given to Highlands and Islands Enterprise being given equal powers to that proposed for Scottish Enterprise in relation to the delivery and management of these grants.

Order Making Powers

In relation to the power to make orders to restructure the discharge of public functions in Scotland, the Council notes that this could potentially have a significant impact on how public services are organised and delivered. Consequently it is important that there is effective consultation over and scrutiny of any such proposals.

The Council welcomes the commitment by the Scottish Government that the order making power will not transfer functions away from local authorities or make any structural changes in relation to local government. The Council also welcomes the fact that the order making power also allows functions, following consultation to be transferred or delegated to local authorities
as well as fire and police authorities. However any such transfer and/or delegation would have to be accompanied with an appropriate transfer of financial resources.

With regard to the order making power to enable Ministers to reduce or remove administrative burdens, the Council while welcoming the policy intention behind these proposals, would wish to ensure that local authorities are fully consulted on any proposed changes which relate to functions they discharge and for which they have responsibility.

For example changes to licensing and inspection arrangements could have significant consequences for local authorities which would have to be carefully considered.

Establishment of Creative Scotland

The Highland Council welcomes the creation of Creative Scotland and also welcomes the confirmation that Creative Scotland will be established at arm’s length from Scottish Government and that Creative Scotland will be fully funded by the Scottish Government, separate from the core budgets of the merging organisations.

The Council note the intention that a new area of work for Creative Scotland will be to assist artists to achieve excellence and to promote Scottish art and artists in the international arena.

Whilst the Council is, in principle, supportive of this aspiration, it is conscious that this may have additional cost implications; consequently the Council would urge the Scottish Government to make new resources available for new areas of work and would not want the necessary resources to be diverted from current provision by Scottish Arts Council, particularly existing funding for grass roots participation and community based cultural organisations, such as Promoters Arts Network and Fèisean nan Gàidheal in the Highlands.

The Highland Council has always appreciated Scottish Arts Council’s awareness of and consideration for the particular needs, challenges and opportunities in the Highlands, which are often different from those in more urban and / or central areas of Scotland. The Council hopes Creative Scotland will similarly be conscious of the need to adopt varying approaches and implement strategy flexibly to best serve the various, geographical and culturally distinct, areas of Scotland. Similarly, we would expect Creative Scotland to take an active role in supporting and promoting the Gaelic language and cultural traditions.

The Highland Council welcomes how, in the lead up to the creation of Creative Scotland, Scottish Government and the transition board have engaged with artists and the arts community and canvassed their views. It is essential that Creative Scotland continue to fully involve artists and the art sector in its establishment and development.

The Council has previously expressed reservations that the proposed size of Creative Scotland’s Board might be too limited; that reservation would be
somewhat assuaged if the Board's make up comprises a membership that ensures it has knowledge and experience which is broad and varied enough to represent the diversity and range of the cultural sector in Scotland.

Social Care and Social Work Improvement Scotland
Health Improvement Scotland
Scrutiny

The Highland Council notes the intentions of the Bill with regard to new scrutiny arrangements, to ensure more consistent and effective approaches in social care, social work, criminal justice social work, child protection and health care services, and across the public, private and voluntary sectors.

The Highland Council agrees that the current legislation no longer reflects best practice, including the level of joint working across agencies, or best practice in regulation and scrutiny. Accordingly, the new legislation is welcomed, as it seeks to base these activities around an integrated cycle of improvement, and that regulation is integrated, proportionate, and evidence-based.

The Bill presents some opportunities to strengthen and further develop working practices, to:

- have a more consistent approach to risk assessment and scrutiny of public services;
- enable improved sharing of information across inspectorates;
- use the duty of collaboration to replace some current ad-hoc and opportunistic joint working arrangements.

There is an ongoing debate about how far these objectives can be achieved through legislation, and how much should be addressed in guidance and protocols, between the regulators and with service providers. Certainly, the new proposed duties will require a change of culture amongst scrutiny bodies, which is more than can be achieved by legislation alone.

The Bill reduces the number of scrutiny bodies by replacing the Care Commission and SWIA with Social Care and Social Work Improvement Scotland (SCSWIS). However, it falls well short of the recommendations, widely supported by service providers, of the Crerar Review.

Crerar recognised that we operate in a world where health and social care and education are not discrete entities. Practice in community care and in children’s services is increasingly integrated across professional disciplines and agency structures.

This Council believes that this legislation is a missed opportunity to combine the regulation of health, care and education into one organisation. It is concerned that while there has been some rationalisation of functions, and there is the proposed duty to collaborate, this may not be sufficient to ensure a seamless efficient approach for service users and providers. Indeed, the duty to collaborate is unlikely to resolve the duplication in inspection programmes, schedules and processes, for both service providers and service users.
Also, the achievement of improvement-based scrutiny will be challenging, and the Bill does present some risks:

- The necessary arrangements during the imminent process of transition may introduce significant additional work which could impact on our normal business of providing services - albeit the regulatory bodies will be required to fund the costs of establishment/transition, and identify efficiency savings in relation to scrutiny.
- Greater standardisation and consistency across regulators will be welcome, but we do not necessarily want a simplistic 'one size fits all' approach in return.
- There will be an increased requirement on the Council to undertake self-evaluation. It is possible that one form of regulatory bureaucracy is being replaced by another, and that the overall burden will not be reduced.
- There continue to be different processes for dealing with complaints about public services, as while the Crerar report included the case for a single complaints system across all public services, the Bill does not fulfil this.
- There may be a greater risk of scrutiny and regulation dominating the balance of our activities, causing us to be more inspection-led and less management-led.

Financial Implications of the Bill

From the Council’s perspective, it is hoped that the Bill will result in reduced bureaucracy and duplication from external inspections. Where this is the case, the Council will wish to identify any time or cash savings that result, in order that these can improve efficiency within the Council and contribute to the Council’s own efficiency targets.

In addition with the reduction in the number of scrutiny bodies and the level of scrutiny combined with a move towards self-evaluation it should be the case that the new scrutiny arrangements will cost less. It could be that the savings that are achieved could be invested in those agencies that will be required to carry out the self-evaluation; for example local authorities.

Conclusion

Overall the Highland Council is broadly supportive of the measures contained within this Bill, which will contribute to reducing duplication of both activity and inspection within the public sector landscape as well as contributing to the development of a proportionate and risk based scrutiny system in Scotland. The anticipated benefits from reduced and more consistent regulation are likely to outweigh the risks referred to above. However, the Council believes that still more can be achieved towards the achievement of the Crerar recommendations, and that the legislation could have gone further in this regard.