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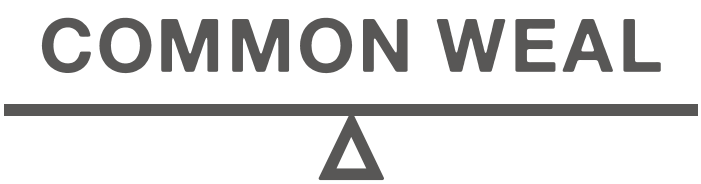
Common Weal Policy

READY TO FAIL: THE 'CO-DESIGN' PROCESS FOR CREATING A NATIONAL CARE SERVICE AND WHAT TO DO ABOUT IT



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KEY POINTS

— Common Weal was part of a coalition of organisations involved in the delivery of care services in Scotland who called for a pause in the process of developing a National Care Service so the Scottish Government could return to the drawing board and use a co-design process which involved frontline staff. The Common Weal’s Care Reform Group has been monitoring progress since.

— There are substantial doubts that the Scottish Government is actually committed to a co-design process and there are strong signs that the changes are cosmetic while the Scottish Government can continue with the outsourced design process it was previously using.

— There is no clarity on the difference between co-design, collaboration and consultation (entirely different processes and the government approach conflates these seemingly at will).

— The process continues to exclude completely the experience of the pandemic, even though that is nominally what triggered the policy.

— Far from ensuring that there is mutual consent for changes being proposed, the Scottish Government is contravening its own pre-existing policies, not only not ‘co-designing’ significant parts of the proposals but progressing with them without even basic consultation.

— There are repeated instances where the Scottish Government claims to be pursuing a co-designed solution but has entirely excluded key stakeholders.

— Despite promising a co-design process, the government continues to spend large amounts of money on private sector consultants – but has dedicated no resources to the co-design process itself a part from civil servant time.

— Again and again the assumptions that the Scottish Government brings to the design process betray a refusal to give up any direct Ministerial control

— Some of the unilateral decisions made by the Scottish Government are very controversial. For example it had created new criminal penalties for carers in the NCS Bill – staff who failed to share information without even consulting them.

— The Scottish Government has been widely criticised for centralisation throughout the process of designing the National Care Service, but is doubling-down even further, centralising control over services and driving involvement from the top down. This flies in the face of the standard process for co-design which they are supposed to be following.

— There are real concerns that the Scottish Government is deliberately trying to pit those who receive care against their carers to retrospectively justify a policy position the government is nominally in the process of reviewing with an open mind.

— Instead, to give the impression of listening, the Scottish Government has created a convoluted mess of working groups, with over 70 at the last count and no coherent way proposed to pull their work together.

— People who have tried earnestly to engage with this process have been getting increasingly frustrated and are largely losing confidence:

— The convoluted mess of processes means that progress is glacial, to the extent it raises questions as to whether the government wants the process to succeed or not.

— The underpinning principle of the National Care Service remains ‘rationing’, not universal availability like the National Health Service. There appears no way to change this via the co-design process.

— Beyond even that, where the co-design process is being used at all, what it is allowed to examine is still restricted what the Scottish Government wants, not what frontline staff or service users want.

— The research and evidential basis for the Scottish Government’s proposals are threadbare. Policy is being ‘designed by anecdote’ rather than through rigorous, consistent, respected methodologies of research.

— This is particularly concerning because of the limited cohort from whom these anecdotes are being derived. They are ignoring and excluding care workers and instead listening primarily to ‘care experience individuals’. Almost all of these have special and intensive needs and their experience of care will be different, and they are self-selected. In addition, many in this cohort are children (sometimes as young as three), or adults with dementia, severe learning difficulties or addiction problems.

— If the Scottish Government was serious about a co-design process it wouldn’t just be allowing people have ‘a say’, it would be giving them power.

— The report concludes with a detailed series of proposals for how to reverse this process and convert it into one which is genuinely driven by the principles of co-design.

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INTRODUCTION AND PURPOSE

Co-design and the National Care Service[1], was published by the Scottish Government in June 2022, the day after the National Care Service (NCS) bill was published. It started with the following commitment:

> "The National Care Service (NCS) will be designed together with the people who access and deliver social care support and other relevant services."

The second sentence then explains why the Scottish Government believes this is important:

> "It is important that we put lived experience at the heart of our future co-design programme to ensure that it embodies human rights principles and delivers for the needs of people and not the system."

Care provision has not been "delivering for the needs of people" for many years, as Common Weal documented in *Caring for All*[2], where we set out our vision for a National Care Service (NCS) based on our analysis of what is wrong with the current system. As part of that we briefly explained why using 'lived experience' and embodying human rights principles in service design is far more problematic and complex than might first appear and therefore we needed new ways to design and control services from the bottom up.

The purpose of this paper is to extend that analysis with a critique of the Scottish Government's current approach to co-designing the NCS, to consider the wider policy issues surrounding co-design and to set out an alternative framework that moves beyond co-design to democratic control over care services.

THE SCOTTISH GOVERNMENT'S COMMITMENT TO CO-DESIGN THE NCS

> *"Co-Design: The process of designing with people that will use or deliver a product or service" (Design Council, UK).*

Co-design and the National Care Service almost immediately introduced some important qualifications to the proposed co-design process, stating that the rest of the document "explains the way in which that collaboration will work, how the views and expertise of those who have experience of the system will contribute to its development, and where responsibility for decision making will lie". The policy slides from 'co-design' to 'collaboration' in two paragraphs, then slides further with a large section on 'consultation'.

Conceptually these processes are not the same thing at all, as explained by SPICe in their excellent briefing on *How do you design a public (national care) service*[3]. The different terms also imply very different levels of involvement as set out in Sherry Arnstein's well known *Ladder of Citizen Participation* developed back in 1969[4].

Besides the conceptual confusion, many of the elements normally associated with co-design are omitted from *Co-design and the National Care Service*. For example, in an *Introduction to Co-design* Ingrid Burkett states "Co-design asks service providers and service users to walk in the shoes of each other and to use these experiences as the basis of designing changes"[5]. Since the current co-design process focuses almost entirely on those receiving services, it is impossible for either the users of services or the workforce to do as Burkett suggests.

Moreover, instead of "involving people in generating ideas, testing them and making decisions"[6], *Co-design and the National Care Service* makes it clear that it will be Scottish Ministers who take all the important decisions:

> "Scottish Ministers are accountable to the Scottish Parliament for the delivery of policy commitments and the use of public money. Ministers will therefore ultimately be responsible for taking decisions about the scope and functioning of the National Care Service at national level, and how local bodies are structured and governed. In doing this, they will take account of views from a wide range of stakeholders before taking proposals to the Scottish Parliament."[7]

Fundamentally, despite all the panels, working groups and civil servants that have been employed to engage with people, the NCS design process has been little different from any standard consultation.

THE FLAWS IN THE NCS CO-DESIGN PROCESS TO DATE AND LOOKING FORWARD

What consultation has taken place up until now represents a series of missed opportunities:

— The Lived Experience of people needing and providing care during the Covid pandemic, which is what triggered demands for a NCS, has been hived off to a separate public inquiry and has not been included in the co-design process.

— While people with lived experience of receiving services had been on various policy panels leading up to the bill [see p11], there was no engagement with social care or social work staff and their unions prior to the bill being published.

— The NCS Bill was not drafted in consultation with those with Lived Experience.

— The NCS Bill included provisions to transfer children's services to Care Boards before any consultation, without any consideration of the implications for the care of children and without a Children's Rights and Well-being Assessment (a policy requirement intended to involve children and young people in the development of policies/measures affecting them). This is contrary to the commitments the Scottish Government made in the Promise to give care experienced young people a voice[8].

— The 'lived experience' of the workforce is still not a Scottish Government priority, despite the 'Scottish Approach to Service Design' specifically referencing the involvement of staff as well as service users. For example, just one workforce representative was appointed to the social covenant working group chaired by the then Minister for Social Care (she later resigned)[9]. The design process has consequently had a tendency to present service users and social care workers as being on opposing sides, something that is neither true nor helpful to either group.

— The Scottish Government has instigated a separate *Independent Review of Inspection, Scrutiny and Regulation*, key processes that affect the quality of care services, but has rightly been criticised for including few people with Lived Experience on the Review Panel[10].

— The Scottish Government has also set up a standalone process for the establishment of a National Social Work Agency in which it has failed to engage and consult the Trade Unions.

— Following publication of *Co-design and the National Care Service* the Scottish Government launched a Lived Experience Experts Panel (it's not experts, anyone can apply) and a Stakeholder Register. Both of these involve self-selected individuals and organisations and are in effect an extensive consultation on social care policy at the national level[11]. Membership of these groups has not been published but representative organisations, including the Trade Unions, appear to have generally been excluded while the number of individuals involved appears to be very small and cannot be taken as representative.

— Even more fundamentally, there have been two parallel processes involved in creating the NCS, the opposite of co-design. Prior to the consultation with those with Lived Experience commencing, the Scottish Government engaged private sector management consultancies: PWC to create plans for a 'Design Authority' and KPMG to describe the Current Operating

Model (COM) and from this create a Targeting Operating Model (TOM) for the NCS[12]. While a number of representative organisations have been consulted on this work, the Scottish Government has refused to make the TOM public on the grounds that it represents policy still under development.

— Despite the commitment in "*Co-design and the National Care Service*" that it would "co-design an electronic health and care record", in December 2022 the Scottish Government advertised a tender behind a procurement firewall to design the IT architecture[13]. The Service Specification stated: "The Supplier will work with the programme team to identify opportunities for co-design activities with stakeholders and people with lived experience". Co-design of care records appears to have been reduced to a sporadic activity which is being driven by organisations with financial interests.

Anecdotally, it appears that increasing numbers of people and organisations have started to appreciate the serious limitations to the NCS co-design process – based on their 'lived experience' of trying to get involved in the 'Lived Experience Experts Panel' and Stakeholder Register. Indeed, one of the major social care trade unions, Unite, announced at the end of January it would now boycott the whole process[14].

While the Scottish Government has been investing large sums of money in private sector consultants, nothing has been invested so far in the co-design of actual services outside of the expansion of the civil service. The amount committed to the IT Discovery Tender (£600k for two months work, with the potential for another £1,800,000 to follow) would have been enough to create local lived experience panels across the whole of Scotland.

The draft NCS Bill, which, according to the Scottish Government, was intended to create a framework for care provision in the future, contains nothing that would put co-design onto a firm statutory footing or build it into the bricks of the NCS. Rather, its provisions are likely to do the opposite. It is difficult to see how Care Boards, appointed and controlled by Scottish Ministers, could do anything to further the cause of co-design.

Moreover, one of the bill's provisions, Clause 36 on information, contradicts the Scottish Government's commitment "to co-design an electronic health and care record". As drafted it gives Scottish Ministers the power "by regulations provide for a scheme that allows information to be shared in order that services can be provided efficiently and effectively by and on behalf of the NHS and NCS". The clause contains no reference to the interests of people with lived experience or that the management of information pertaining to or used by them should be co-designed. Instead, it allows Scottish Ministers to "create sanctions (civil or criminal) for those who fail to comply with the regulations' requirements". The workforce, i.e. the people who have lived experience of current systems, were not even consulted before the Scottish Government decided to include such draconian and unprecedented provisions in the NCS Bill which potentially could lead to criminal action being taken against workers themselves.

Taken as a whole this evidence shows that the Scottish Government's commitment to co-design the NCS has been little more than a charade to date, with their approach and methods at complete variance with existing models of good practice and previous promises.

THE POLICY BACKGROUND

The idea of co-design is not new and not specific to social care, having been used to inform how the Scottish Social Security Service should be delivered ("with dignity, fairness and respect"). It was also used in the Independent Care Review where much time and resources were used to gather the 'lived experience' of 5,500 individuals – about half of whom were children and young people – and which eventually resulted in the Promise[15]. Its application to the creation of the NCS, however, which potentially involves everyone in Scotland, has given the idea of co-design a higher profile than ever before and meant the term has entered public discourse.

The Scottish Government set out its broad approach to the design of public services in 2019[16] when it set out a vision "that the people of Scotland are supported and empowered to actively participate in the definition, design and delivery of their public services (from policy making to live service improvement)". It has created an Office of Service Design, located in the Digital Directorate, which is now playing an active part in the design of the National Care Service.

That policy and the office to implement it can in turn be traced back to the Christie Commission which reported in 2011[17]. The Commission was asked to consider the future delivery of public services, within a context of increasing demand and reduced resources. It proposed radical reforms based on four principles; involving individuals and communities in the delivery of public services, public sector agencies working together, shifting spend towards preventive services, and reducing duplication. The Christie Commission, coupled with longstanding pressure from the Disability Rights movement, helped inform the development of the Self-Directed Support (Scotland) Act 2013. Building on the Community Care (Direct Payments) Act 1996, this created further legal rights to enable individuals to participate in the delivery of services provided to them. New rights for communities to participate in the planning of public services were then created by the Community Empowerment (Scotland) Act 2015.

For social work and social care, however, the idea that people, both as individuals and through communities, should be involved and have a real say how services around them worked has a much longer history, even if not as focussed as Christie: "In the social services, there is a long and rich tradition of participatory engagement with so called 'clients', 'consumers', 'beneficiaries' and 'constituents"[18]. For example, the Disability Rights Movement emerged out of serious concerns and anger about how people with disabilities were being treated and led to government responses at the individual, service planning and policy levels.

How much of this should be classed as consultation, how much as collaboration and whether any of it went as far as co-design is a moot point, but it is important to note there has also been a radical tradition within Social Work that dates back to its roots and has placed the empowerment of individuals and the rights of citizens and communities at the heart of what social workers should do[19].

THE SCOTTISH GOVERNMENT AT A POLICY DEAD-END

The multiplicity of policy statements about involving people and communities has achieved very little, despite efforts at various levels of government. This has been widely recognised, with several experts remarking ten years after the Christie Commission that most of its aspirations had not been realised. For example, the Auditor General, commenting on the Christie recommendations, stated "audit work consistently shows a major implementation gap between policy ambitions and delivery on the ground"[20].

The issues go deeper and are more longstanding than that as the Director of the Scottish Community Alliance recently explained:

"Every time I find myself in a discussion about Community Planning, it feels just a little more like Groundhog Day. Attending one such event last week, it's no surprise for me to report there's nothing new to report. One of the most enduring misnomers in the lexicon of public policy, the idea that communities can play an active part in planning for better public services has always seemed implausible – especially so because of Scotland's predilection for ever larger, more centralised units of public administration. Over 25 years of Community Planning, there have been many false dawns, each one suggesting that those seemingly impregnable silos of the public sector are about to be dismantled (a prerequisite of Community Planning as originally conceived)[21]."

The response of government to this failure, led by Audit Scotland, has been to press public authorities to try harder to reform themselves quickly and for those in senior positions to become better leaders. It hasn't worked, as evidenced for example by the failure of health

and social care integration (an attempt to get public authorities to work together and to reduce duplication)[22]. Despite this evidence, the response of the Scottish Government has been to double-down even further, centralise control over services and drive involvement from the top down, the polar opposite of what the Christie Commission recommended.

In order to demonstrate they have not entirely abandoned the Christie Commission principles within social care, the Scottish Government have then appealed over the heads of all the intermediate rungs involved in service delivery, both public authorities and service providers, to individual people with lived experience of receiving services. They have co-opted some to advise them, in an apparent attempt to legitimise what is happening, while potentially setting those who need support against those who deliver it. The workforce, including those with expertise in commissioning and managing services, social workers and care staff have been side-lined.

This approach pre-dates the Covid pandemic when the Scottish Government set up a People Led Policy Panel for the Adult Social Care Reform Programme in 2019. This is still in existence although its membership and power when it comes to policy development has been kept secret[23] and its relationship with the Social Covenant Steering Group is unclear.

The questions the Scottish Government have never addressed publicly are why the aspirations of the Christie Commission have not been delivered or how its recommendations could be implemented. The elephant in the room for the Scottish Government, as it was for the Christie Commission, is resources. The Commission reported three years after the banking crash and was driven by the onset of austerity and the need to make better use of resources in the face of rising demand. What the Commission never anticipated was that the cuts in public expenditure, and to local government in particular (which was at the centre of their recommendations) would continue in the way they have.

The cuts in public expenditure and to local authorities in particular are crucial to understanding why the Christie recommendations about involving people and communities in the design of services and working with other public agencies have not been delivered. Such work requires time and unless there are the resources to enable this, it won't happen.

While there has been substantial top-down pressure from the Scottish Government on councils, public bodies and any organisation applying for public funding to demonstrate how they are involving people with 'lived experience' in service/policy development, without adequate resources this generally becomes a tick box exercise. Despite this, there are still good examples of councils involving people in co-design anyway, such as the Community Social Work project in Fife[24]. Such examples are generally under the radar but the more important point is what might have still been possible in 2011 is certainly not possible now.

The idea implicit in the Scottish Government's design process for the NCS, that you can replace the need for multiple engagement at different levels across Scotland by a few teams based in the civil service in Edinburgh, and that you can make stakeholders work together by putting them into or controlling them through a single organisation managed from the top down, is, in terms of co-design principles, completely wrong.

A DESIGN PROCESS GOING NOWHERE

A further problem with the current NCS 'co-design' process is the proliferation of working groups, sub groups and forums (over 70 at the latest count) whose relationship to the Lived Experience Panel and Key Stakeholder Group is unclear. Even the most well-resourced organisations cannot support the volume of invitations to engage. The same point also applies to the inevitable self-selection of services-users who take part in these processes. It appears that even the civil servants may be finding it difficult to keep up as there is almost no product from these meetings; either that or proposals are being kept secret.

The current co-design process has been described by someone trying to participate as “like a maze, with plenty of dead-ends and no obvious way through, and where at every junction participants are treated to bland, non-committal instructions from the civil servants”[25].

The update provided to members of the Key Stakeholder Reference Group on 14th April[26] revealed that activity was “initially” focussed on five priority themes, each of which will have five stages: Understanding; Making sense and coming up with ideas; Agreeing; Drafting Regulations; and Service Design and Review. The update reported that “Two of our themes - ‘Recognising rights and responsibilities’ and ‘Information sharing to improve care support’ - have already undertaken initial Understanding phase work”. Six months after they were launched, there are over 23 out of 25 stages still to go and the Scottish Government has not published a single product from the Lived Experience Panel or Stakeholder Register. Sometime it appears as though the Scottish Government wants the current process to fail so they can claim to have no choice but to go to management consultants like PWC and KPMG.

The wider problem is that the Scottish Government has not been prepared to engage on what resources are needed to make a co-designed National Care Service happen. The same issue has undermined the commitments the Scottish Government made in the Promise where the Oversight Board has expressed frustration at the lack of progress[27]. The Financial Memorandum to the NCS Bill has rightly been widely criticised for lacking any meaningful information about the costs of what is proposed, including the costs of co-design, while the NCS Bill itself leaves all decisions about the funding of the NCS to Scottish Ministers.

That finance – or rather the lack of it - is driving everything is not just evidenced by the Scottish Government’s engagement of consultancy firm KPMG to design how the NCS will operate but by the paragraph in *Co-design and the National Care Service* quoted above which states that because “Scottish Ministers are accountable for the use of public money they will ultimately be responsible for taking decisions about the scope and functioning of the National Care Service”.

That is not how the NHS, whose constitution still states “access to NHS services is based on clinical need” was originally designed. The person who led the founding of the NHS, Nye Bevan, put people before resources.

THE PROBLEMS AND LIMITATIONS OF CO-DESIGN

The process to co-design the NCS to date has conflated a number of very different concepts and ignored some issues which are particularly important in social care. Specifically, it has conflated the design of care packages for the individual with the design of services, and the design of services with the ‘design’ of public policy. These are three different things and using the same term for all three, without clarifying what is being referred to, is not helpful. The term ‘Co-production’, which was enshrined in the Care Act in England in 2014, is similarly used to cover a wide range of different processes which need to be differentiated.

1. Co-design and individuals.

The current legal framework provided by the Self-Directed Support (Scotland) Act 2013 (SDS Act) offers three options for service provision but provides less opportunity than is commonly supposed for those with lived experience, whether the workforce or those in receipt of services, to co-design them.

Direct Payments/Option 1 of the SDS Act does give people assessed as having care needs the right to design their own services within the budget that has been allocated to them. While many of the principles commonly stated to be involved in co-design apply to the assessment process that precedes the choice of the three options, and while the person choosing Option 1 may seek support to help design their service, there is no obligation on them to do so. Moreover, while that person may choose to co-design the service with the people they employ, they are not required to do so at present. In practice, both the budgets awarded through Direct Payments and

the assistance available through Independent Living Centres act as further constraints on people's ability to co-design services under Option 1.

Options 2 and 3 of the SDS Act set out how people can choose services from the market, either by choosing themselves or by asking the local authority to do so on their behalf. In neither case is it likely that the person will be able to co-design the services on offer. Rather the person seeks a service or provider they think might be suitable (the process is far from rational and not helped by a lack of good information about services) and then negotiate how a service might best be delivered to meet their needs. Traditionally this has been described as care planning and the professional involved in this is usually a Social Worker (or sometimes an Occupational Therapist) whose professional code of conduct requires them to "Support the rights of people who use services to control their lives"[28].

Having chosen/been matched with a service, what then matters is the degree of control a person has over the services they receive. As we argued in *Caring for All*[29], this cannot be absolute as care staff have their own needs and other commitments (e.g. they are likely to have to support a number of people each shift). The delivery of good care therefore fundamentally depends on a process of negotiation and compromise that should be mediated through the relationships between the person needing care and the people providing it. One could describe this as co-design at the coal face. Unfortunately, this does not seem at present part of the Scottish Government's co-design agenda, which has started with policy, not service delivery.

Whatever option is chosen under the SDS Act, resources play a big part in determining outcomes. Resources determine how many hours care can be provided, what care workers are paid and whether they have time to provide services with a degree of flexibility in order to best meet needs. Resources are the single biggest factor that determines the quality of care and enables care staff to focus on the needs and wishes of the people they are working with rather than what service managers are instructing them to do.

2. Co-design of services

While there has been much talk about co-designing services with and around individuals, little consideration has been given to what this might mean or the implications. To illustrate this, few people would argue that a school should be designed around the needs of one individual: rather what any responsible education authority should do is look at the needs of children in their area, aggregate them and then work out how the school building might be designed and resourced to meet those needs. Co-design could drive this process but if so, it needs to be done on a collective basis, involving *all* those with a stake in the service, in this case a school.

Once a school is up and running, teachers and other school staff then require to consider the needs of each pupil individually within the resources available and in some cases produce specialist plans or when required try to draw in additional external resources. In these cases, engagement with the individual pupil and their families is particularly important and is likely to take more time. The important point, however, is that while the school may make some changes to cater for a specific individual which affect everyone, the scope for doing this is limited. This is why some children get excluded from school and special schools continue. There is therefore a fundamental difference between the need to personalise care packages, the delivery of care to the individual, and the design of services which has to be done on a collective basis.

This means that the current methodology the Scottish Government is using to design the NCS, which is based on a limited number of specially selected people who sit on its people-led policy panel and its Lived Experience Experts Panel is fundamentally flawed. The only way to co-design services is if all those who require the service (or their representatives) are involved. While a centralised NCS could do this for specialist services offered nationally (e.g. services for people who may be deaf and blind), most services operate at a local or devolved level and any co-design process for such services therefore needs to take place locally.

Moreover, while those with lived experience, both those needing care and social care workers,

are central to articulating how the care elements of a service should be designed, all services involve other components without which they cannot be designed or delivered. Co-design therefore cannot just be done by those with lived experience but requires the involvement of a range of professionals, most frequently, for example, commissioners, service managers and finance staff but also on occasion other people like planners and architects, cooks and cleaners.

Arguably, what matters most, the co-design of services, is completely missing from the Scottish Government NCS design process.

3. Co-design of policy

The idea of co-design originally emerged as a way of improving products or fairly simple services, not policy, let alone policy in an area as complex of care provision. This does not mean care policy cannot be co-designed but does suggest how to do so needs special consideration and that the process itself might require or benefit from being co-designed.

At present almost all of the 'co-design work' on the NCS involves policy development, not services, and concerns general matters[30], such as what should be in the Charter of Rights, rather than specific policy questions such as whether Child Protection policies are working[31] or how to address the imposition of unfair terms and conditions by Care Home providers. Since the NCS Bill explicitly states that no new rights will be created by the Charter of Rights, this work is primarily not about policy development but about how existing policy should be presented.

In most of the policy areas covered by the NCS design process there is already a glut of law and policy. A large amount of effort therefore has been devoted to engaging people on matters that are unlikely to result in significant changes on the ground: this may explain why, as people have realised this, levels of disenchantment with the process appears to have increased.

This is not to argue policy development is unimportant; in fact it is crucial as it can drive both investment in care services and changes to the law. The current 'co-design' process, however, is focussed on what the Scottish Government has identified as important, not what people working in or needing services and their carers think is important, for example the pay, conditions and training of care staff. Rather than co-designing policy and then developing a NCS Bill that reflects that work, the Scottish Government has designed what it believes a National Care Service should do and then involved some people with lived experience in the more marginal aspects of policy development.

Just as it is wrong to rely on the voices of individuals on their own to design services, so it is wrong to rely on individuals to advise on policy, whether self or Scottish Government selected, which raises questions of whether the Scottish Government is using people to sell its own agenda. Such individuals cannot be representative. This is even more so in social care than other areas of policy because a very high proportion of people needing care either cannot, will not or need support to express their views as a result of mental capacity issues from conditions like dementia, mental health problems, addiction etc.

It is ironic that under the current consultation process the Scottish Government often appears to have given most voice on policy to those in receipt of Direct Payments, who of course should have a key role to play in how that aspect of the care system is designed, but who as explained above are free to choose to design their own services without input from or reference to others. (This is not to imply that people who receive Direct Payments are somehow better off than others in need of care support – the relative reduction in resources has affected everyone - or have any real influence over what is happening).

Behind these failures lies a lack of clarity on the part of the Scottish Government about what the point of co-design it actually is. If it is the thoughts/experiences of random individuals it is hard to see how that differs from anecdote. If those participants' views were properly stratified it is difficult to see how it differs from research. The Scottish Government has so far in its attempt to design a policy framework for the NCS failed to contextualise the voices of those with

lived experience or explain how the voices it is listening to compares with findings obtained by more rigorous methodologies.

The current model of relying on individuals with lived experience also represents a move away from the local co-production envisaged in community planning and its replacement with watered down terminology and a centralisation of power. Collaboration exercises led by consultants provides another example of how control is being centralised not devolved.

FURTHER LIMITATIONS ON CO-DESIGN IN SOCIAL WORK AND SOCIAL CARE

While working in partnership with people where possible is at the heart of effective social work and social care, this is not always possible or desirable and not just because people lack mental capacity. Care provision, as we explained in *Caring for All*, is irredeemably complex, and care provision involves taking account of what we have called the four Rs - Rights, Responsibilities, Relationships and Resources. The rights and wishes of carers and people in need, for example, sometimes clash and co-design, at whatever level, needs to take account of this. The rights of people to have their care needs met also depends on services being sufficiently resourced and the development of positive relationships with those providing care.

But there are also a number of instances where 'co-design' may be inappropriate. In what sense of the word should someone convicted of a serious crime be empowered to co-design their license on discharge, the prison where they are incarcerated or justice policy? The potential for choice to be abused was recently illustrated by the Isla Bryson case[32]. Or to what extent should someone with a serious addiction problem be allowed to co-design their care package (e.g., by asking for a Direct Payment), co-design specialist residential services or addiction policy? The answer will vary, depending on the extent to which someone is actively addicted, when handing them money would be neither sensible nor in their best interests, or in recovery in which their lived experience may be crucial to the design and delivery of effective services. The point here is that however important it is to engage with individuals or groups on decisions about day-to-day care, the distribution of power in relation to decision-making cannot always be equal.

Finally, for co-design to work, it cannot just be based on representatives of those with Lived Experience, both users of services and their carers, or those involved in back-office functions. Co-design needs to involve other stakeholders from local communities and other public authorities to ensure care services join up with informal support networks and other types of services. That element of service design should also be done with those who have or are likely to have 'lived experience' of the care service from the outside.

TOWARDS A NEW MODEL OF CO-DESIGN FOR THE NCS

1. Care-planning - co-design with individuals, their families and communities

The profession that is trained to work with everyone, whatever their circumstances, and work with people to determine how their care needs might best be met is Social Work. There is much research and guidance on how Social Workers should do this, but much of that has been undermined by social workers being allocated to gatekeeping and protection roles and the ways these are now managed. It has become increasingly difficult for social workers to help people – even though many remain committed to working alongside people as far as possible – when their primary function has become to ration service provision and protect some people from others[33].

In carrying out these functions, the Social Work profession's respect for people and their difficulties has been gradually weakened,

undermining the professional Code of Practice. This has been a problem made more acute by changes in social work training and target culture which prioritises completed assessments over relationships with people. The result has been that social workers are now often viewed as part of the problem, even by those who share social work values.

If Social Workers are to be enabled to respect the people they are working with and treat them with dignity, as we set out in our papers on *Community Social Work*[34] and *Community Hubs*[35], a number of radical reforms are required.

Eligibility criteria for service provision should be abolished removing social workers from their gatekeeping role and enabling recommendations on service provision to be based on an assessment of need agreed with each individual person.

Social Work Services as a whole need to refocus onto helping people, rather like GP services at their best, rather than protecting people deemed to be at risk. It is questionable how far the current emphasis on adult and child protection has reduced harm but far more good would be achieved if the main focus was on prevention and helping people when help was first requested/ needed.

Social workers need to be given time to form relationships with people, recognising that care needs are often not simple and may require support over time. That implies a completely different model of social work, with far less form-filling helped by much better IT.

The professional value base of social work has been eroded by the current system and for that to change training programmes need to be reviewed and some of the workforce helped to re-focus on core values through training, supervision and peer support.

Delivery of services co-designed with the individual and tailored to meet their needs also requires radical reforms to the way the social care workforce is managed and treated:

— Social care staff need to be empowered to take decisions with people about what care they provide on a day-to-day basis taking account of the collective needs of all the people they support.

— For this to happen social care staff need to be: given the time not just to undertake physical care tasks but to form caring relationships through which care provision can then be mediated on a daily basis; trained and supported

2. Co-design of Services

Co-design of services needs to take place at the service level and involve commissioners and the stakeholders in each service; the people who use and service and work in it, informal carers, providers and other interests such as community health services. Co-design should be integral to ethical commissioning.

Most work to co-design services needs to be undertaken in localities. In our view it is best overseen by local authorities to ensure democratic oversight and that the work is in the public interest. For national services, such as specialist services to meet specific care needs, that might involve a national commissioning body – on the model of Scotland Excel[36] which is a joint venture across local authorities – but the stakeholders should otherwise be little different to local services. There should be no need for the Scottish Government to be involved and indeed, as the funder of care services, it is arguable that there would be a conflict of interest if it were to do so.

Local co-design of services requires local authorities to be properly resourced. The in-house information, research and analytical capacity of local authorities necessary for service and policy development and evaluation – centrally and departmental – has been hollowed out, particularly over past decade. Some of these functions have also been centralised within the Scottish Government. In comparison to health services, social work services in particular have historically been under-served in terms of in-house capacity for research and evaluation. What exists is largely focused on management information/performance management and the largest local authority in Scotland lost its only social work research officer in cuts years ago.

The role of commissioners should be to enable services to be planned effectively (e.g., by gathering data on need) and resources to be used wisely while working with all stakeholders to ensure that services meet needs. This requires training, including in the skills required to work with a wide range of stakeholders.

The first working presumption behind all co-design of services should be that collective needs are as important as individual needs and to balance the two some compromises will be necessary (e.g., staff having discretion to determine how much time they spend with individuals on a daily basis so as to meet the needs of all). This requires training and the development of professional judgement both among commissioners and staff providing services.

The second presumption underpinning any co-design process should be nationally agreed rates of pay and conditions for staff and agreed mechanisms for costing the infrastructure necessary to run services. This could then be used to determine the cost of service delivery and the amount of funding required. The starting point for this should be parity between social care workers and their equivalent in the NHS and should include matters such as training and development, job appraisal, mileage payments, payment of parking permits and lone working – the NHS have two carers attend service users in specific circumstances, for example, whereas social care staff are usually expected to work on their own.

Inevitably, stakeholders will have different ideas on how to organise services and these will have different cost implications. This means that commissioners and local authorities will, as part of the co-design process, have to consider value for money considerations as will the Scottish Government when allocating resources to meet needs.

A nationally agreed framework to inform decisions about value for money is therefore required if co-design is to work. This needs to be partly based on principle (e.g., services should be locally based and managed even if financially it might appear cheaper to centralise service provision) and partly on the actual costs of providing services in different areas (most domiciliary rural services will be more expensive to run than their equivalents in urban area).

While local authorities should retain statutory responsibility for the provision of care services and assessing what resources are required to meet needs, decisions about whether specific services are better delivered directly, for example, through a voluntary sector provider or a local community organisation should be driven by those who use and work in the services. This is likely to differ from area to area and service to service.

For all this to happen, power needs to be devolved to the service level, as we advocated in *Caring for All*. Stakeholders should not just have a say in the design of services, they should have real power over them so that services evolve over time in response to changing needs and circumstances. Service co-design implies collective empowerment.

3. Co-design of policy

How policy relating to care provision and the NCS is designed requires radical reform. Instead of being driven by the Scottish Government and civil servants, hiding behind unrepresentative panels, it should be driven by elected representatives from the various stakeholder interests. For this to work effectively, democratic structures need to be in place such as Trade Unions that represent the workforce, so that the government and the public can be assured that the people involved in policy formulation represent a constituency and not just themselves. This would also provide a means of adding insight and detail to the evidence base for policy, thereby adding value to it. Policy, like services, needs to be co-designed collectively. Only in that way can differences between the various stakeholder groups and the issues underlying them be exposed, negotiated and resolved.

For this to happen, there needs to be investment in developing/harnessing a more representative voice for people in need and their informal carers, recognition of Trade Unions across social care and support for other stakeholders such as voluntary sector providers. In our view most of that investment should start at the local rather than the national level, where at present the freedom of many supposedly representative organisations to speak the truth to those in

power is constrained by their dependence on Scottish Government funding[37].

CONCLUSION AND RECOMMENDATIONS

The co-design process for the NCS, launched after the NCS bill was published, has not worked. This is, partly because co-design means different things to different people and partly because there has been little consideration of how the concept might apply to the complex world of care. This paper has attempted to set out a more comprehensive framework for considering how co-design should apply to care provision at the individual, service and policy levels.

For co-design to work, it needs to be properly resourced and for co-design processes to start at the local rather than the national level. But, more radically, if we are to have co-design of services in Scotland, power needs to be devolved to those involved at the front-line within nationally agreed frameworks (e.g., around pay and conditions). Real co-design fundamentally requires much greater democracy and would provide an opportunity to re-invigorate local government in Scotland with much further devolution of power within local areas.

To kick start this process and to get the process of co-designing the NCS back on track we make the following recommendations.

The Scottish Government should:

1. Immediately end the outsourcing of the design of any part of the NCS to private sector consultants (as this undermines the co-design process), publish their work to date and subject this to critical analysis by other stakeholders;

2. Publish the names of all those involved in the various NCS policy panels and the documents they have produced;

3. Replace the reliance on individuals with lived experience by structured research/ consultation and the development of representative organisations;

4. Initiate a review of the role of social workers and how they might be freed up to work with people (to co-design how services are delivered);

5. Provide funding to local authorities to start piloting the co-design of services at the local level and to support the development of representative organisations;

6. Consult on what legal provisions should be included in the NCS Bill to ensure all providers of services empower service users, informal carers and staff to inform the development of their services according to co-design principles;

7. Develop care cost calculators to determine fair funding for all services.

Local Authorities should:

8. Once resourced to do so, assess the collective need in their local area and plan with service users, carers and staff how those needs might best be met (this requires skilled staff employed directly by councils and with a detailed understanding of the local area and its people);

9. Demonstrate their commitment to enabling local control of services by initiating/ furthering the co-design of services they provide or commission (this process is likely to take years but local authorities, where they are not already doing so, should start now);

10. Review local procedures, in consultation with those with lived experience and other professionals, with a view to freeing up/ empowering staff to work with people;

11. Support the development of representative organisations locally.

Other stakeholders should:

12. Start engaging directly with each other to develop the ideas, links and structures that are needed to make co-design of a National Care Service, whose primary purpose is to support people whose needs would otherwise be unmet, possible.

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