

# COMMUNITY CARE PROVIDERS SCOTLAND

## LOCAL GOVERNMENT IN SCOTLAND BILL

### WRITTEN EVIDENCE TO THE HEALTH AND COMMUNITY CARE COMMITTEE

#### **About CCPS**

CCPS is the association of voluntary sector organisations providing care services in Scottish communities. Its membership comprises 35 of Scotland's major national care providers in the voluntary sector and it works in partnership with a number of local provider forums covering many of the smaller service-providing voluntary organisations throughout the country.

CCPS members provide a wide range of community care services for adults in Scotland. The total cumulative income of the membership stands at approximately £200M; a significant proportion of this income derives from contractual or other formal funding arrangements with local authorities relating to the provision of public services.

Policy relating to local authorities as purchasers of services are therefore directly relevant to CCPS members; because of this, the association has taken an active interest in the development of best value since the early Task Force reports. CCPS has, in the past, worked with COSLA and ADSW in relation to best value (particularly through the ADSW-led Best Value in Social Work group); it has published a number of discussion documents on the potential impact of best value on the voluntary sector; and it has submitted formal comments on the documents Best Value in Local Government: The Next Steps, Long Term Arrangements and Local Government Bill: Outline Proposals.

Most of the comments in this paper will relate to best value, although we will also add some brief comments on the proposed duty of community planning.

#### **Best value and a level playing field**

This term has become something of a cliché in describing statutory-voluntary relations in community care, but it remains an accurate description of what the voluntary sector aspires to achieve. The Health and Community Care Committee will be well aware of the difficulties experienced by voluntary organisations whose funding authorities are also competitor providers. It frequently appears to the voluntary sector that authorities fund their own services (and in particular their staff costs) at a much higher level than those provided by contracted agencies, without demonstrating a corresponding higher quality of service (or other benefits) as required by best value principles.

CCPS has consistently welcomed these principles (quality as well as cost; consultation with stakeholders; accountability and transparency; and partnership working). One of CCPS's chief hopes for the policy, when it was first introduced, was that it would promote a level playing field by requiring authorities to compare the cost and quality of directly-provided services with those provided by the voluntary (and indeed the private) sector, and to submit their decisions about the eventual selection of a provider to scrutiny. It was also our hope that the requirement to give quality at least as much emphasis as cost would help authorities to focus on the service to the user and to eliminate some of the cruder cost-cutting exercises periodically visited upon voluntary sector providers.

Yet CCPS members have seen very little evidence that these anticipated benefits are happening. We believe that the present bill may provide the opportunity to strengthen the potential of best value in this regard by introducing additional enforcement powers for the Accounts Commission; ensuring that councils are fully accountable for the decisions they make in relation to the means of service delivery; and requiring authorities to take workforce issues into consideration in relation to those decisions.

### ***Enforcement powers***

As the bill stands, the powers of the Accounts Commission (and indeed Ministers) to investigate and intervene are broad-brush and triggered only by a general failure to deliver best value across the board or put in place adequate public performance reporting arrangements. Voluntary organisations subject to best value review have no recourse to an independent arbiter if they feel that the review was carried out inappropriately, or if the eventual choice of provider is the result of a process inconsistent with best value principles.

**CCPS would want the bill to make additional provision for intervention that could be triggered by a council's failure to observe best value principles in relation to specific service areas or service delivery decisions.**

### ***Accountability***

The Executive consultation paper that preceded the bill stated that we think it incumbent on the local authority to be able to demonstrate why a certain means of delivery has been chosen and the financial implications of that decision.

We fully support this view. We understand that the relevant requirement will be taken forward either in regulations or in guidance rather than in the primary legislation; **we would wish to seek reassurances that it will appear in mandatory regulations rather than in guidance; and that the voluntary sector will be fully involved in developing such** (at present the Executive Task Force which will oversee the development of regulations and guidance does not include any voluntary sector representation; we have, through SCVO, written to the Minister in this regard and await his reply).

### ***Workforce matters***

The policy memorandum accompanying the bill states that the Executive recognises that best value is just as much about those who deliver local authority services as those to whom the services are delivered. We interpret this to include staff working for organisations funded by the local authority, as well as those who are directly employed. In this regard, CCPS is pleased to note that Section 10 of the Bill will lift the restrictions which have hitherto prevented authorities from taking into consideration issues which relate to employment practice within contracted provider organisations.

CCPS welcomes this measure. Members of the committee will be aware that one of the effects of the introduction of market mechanisms into community care has been that staff pay and conditions within voluntary sector provider agencies have fallen behind those of their local authority-employed counterparts and we fully support any provision that helps to address this issue.

At the same time, we are aware that in many instances community care purchasing practice within local authorities has contributed to the problem, as authorities struggle to maximise the use of resources by driving down labour costs in the voluntary sector and in many cases refusing to fund cost-of-living pay increases and other benefits enjoyed by directly-employed staff.

**We are concerned, therefore, that simply allowing councils to take account of workforce matters will be insufficient to bring about the desired changes; authorities should be required**

**to do so, and in instances where a decision is taken about the means of service delivery which relates directly to labour cost savings, then authorities should have to demonstrate (as above) the best value principles on which that decision was based.**

## **Community planning**

The consultation paper issued prior to the publication of the Bill stated that the statutory underpinning [to community planning] is designed to promote more effective joint working between agencies in seeking to deliver the services that people want . The paper went on to say that we also envisage as part of this duty, the specific need for the council to ensure the engagement of the local community and voluntary organisations.

CCPS supports the placing of a duty on local authorities to involve voluntary organisations in joint planning. We would hope that the Executive division working on the Local Government Bill will, in this respect, confer with colleagues in the health department, where related developments are taking place. As committee members will be well aware, the Executive has now introduced legislation relating to closer joint working between local authorities and the health service, specifically in relation to community care services (Part II of the Community Care and Health (Scotland) Act passed by the parliament on 6<sup>th</sup> February 2002).

Following evidence from CCPS, the Health and Community Care Committee recommended that the bill be amended to the effect that any new arrangements to facilitate local partnership working should be required to involve voluntary sector providers. This was not taken forward by the Executive and the finalised legislation does not require the statutory agencies locally to involve the voluntary sector in any way, despite its considerable experience and expertise in this area.

It is not immediately apparent to us why local authorities should *not* have to involve the voluntary sector in relation to the Joint Future agenda when the present consultation paper makes it clear that they *will* have to do so in relation to community planning. In our view, the Joint Future agenda must fall within the wider community planning process, rather than stand as a discrete initiative. **We would be pleased if this anomaly between the two developments could be clarified.**

CCPS is grateful for the opportunity to offer this brief evidence on the proposals. We would be very happy to amplify any of the issues we have raised.

CCPS  
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