

ITEM No ...8.....

REPORT TO: POLICY AND RESOURCES COMMITTEE - 22 AUGUST 2022
REPORT ON: NATIONAL CARE SERVICE (SCOTLAND) BILL
REPORT BY: CHIEF EXECUTIVE
REPORT NO: 203-2022

1. PURPOSE OF REPORT

1.1 This report advises members about the publication of the National Care Service (Scotland) Bill, includes information on the extent to which the Bill clarifies areas highlighted by the City Council in its response to consultation on proposals for a National Care Service, and includes a draft response to the 'call for views' issued by the Scottish Parliament.

2. RECOMMENDATIONS

2.1 It is recommended that members:

- (i) note that the Scottish Government has published the [National Care Service \(Scotland\) Bill](#) and associated documents, the key provisions of which are summarised in Appendix One;
- (ii) note that the Policy Memorandum associated with the Bill acknowledges that the Bill will affect local government in Scotland, as it makes provision for local authorities' responsibilities for social services to be transferred to the Scottish Ministers and to care boards, and remit officers to work with COSLA and the Scottish Government to identify the implications at the appropriate time and bring back reports to update Committee;
- (iii) note that, as detailed in Appendix Two, publication of the Bill clarifies some of the matters raised in the Council's response to the consultation on proposals for the National Care Service, but that many details of how the service will operate remain to be decided following further consideration and consultation, and
- (iv) consider and agree the draft response, as set out in Appendix Three, to the Scottish Parliament's call for views, to be submitted by the deadline of 2 September 2022 along with the information in Appendix Two to provide further background on the Council's views.

3. FINANCIAL IMPLICATIONS

3.1 There are no immediate financial consequences for the City Council arising as a result of this report. However, there are likely to be significant implications arising from establishment of the National Care Service, depending on the detailed decisions which have still to be made about its scope and implementation.

4. BACKGROUND

4.1 Reference is made to the report to Policy and Resources Committee on 25 October 2021 (Article III of the minute refers) which summarised the Scottish Government's consultation on proposed changes to health and social care, including the creation of a National Care Service (NCS) and recommended a response by the City Council.

4.2 The Scottish Government has now published the National Care Service (Scotland) Bill, the key provisions of which are summarised in Appendix One to this report.

4.3 The City Council's response to the original consultation set out a number of potential issues and implications and Appendix Two contains a summary of the extent to which these have now been clarified by publication of the Bill. Although the Bill creates a framework for the National

Care Service, and the Bill and associated Policy Memorandum provide information on some of the areas where a need for more detail / clarity was flagged up in the City Council's consultation response, a number of key issues relating to the scope and structure of the NCS, and consequently the implications for local authorities, have still to be decided.

- 4.4 The most debated part of the proposals remains the possibility that children's services and community justice services may be included within the scope of the National Care Service. The Bill makes provision for this, but the Scottish Government acknowledges that because these services were not covered by the Independent Review of Adult Social Care (which recommended establishment of the NCS) the evidence base for the transfer of these services is not so clear as for adult social care, and it therefore commits to further assessment of the risks, opportunities, costs and benefits, and to further consultation, before these services are transferred from local authorities.
- 4.5 The Bill will now go through the various stages of being scrutinised by the Scottish Parliament, with the Parliament's Health, Social Care and Sport Committee taking a lead on scrutiny and gathering views and evidence. A final vote by the Scottish Parliament on whether to approve the Bill is expected in summer 2023, following which it will take time to set up the National Care Service and put the legislation into effect. The Scottish Government say they will set out a timetable for bringing regulations to Parliament once the Bill is approved, and they intend the NCS to be fully functioning by the end of the current Parliamentary term i.e. by 2026.
- 4.6 Approval of the Bill will clearly have implications for local government, as it makes provision for local responsibilities for social services to be transferred to the Scottish Ministers and to care boards. It is recommended that officers work with COSLA and the Scottish Government to identify the implications at the appropriate time and bring back reports to update Committee.

5. CALL FOR VIEWS

- 5.1 MSPs on the Scottish Parliament's Health, Social Care and Sport Committee (and other committees including the Local Government, Housing and Planning Committee) are now looking at the details of the National Care Service (Scotland) Bill and have issued a ['call for views'](#) on what individuals and organisations think about the Bill, including how the proposed law could be improved.
- 5.2 The questions set out in the 'call for views' are detailed in Appendix 3, along with proposed responses on behalf of Dundee City Council for elected members' feedback and agreement. The deadline for submission is 2 September 2022.
- 5.3 In addition, it is also proposed to send the information in Appendix 2 as further background information for the Committees on the Council's views.

6. POLICY IMPLICATIONS

- 6.1 This report has been subject to the Pre-IIA Screening Tool and does not make any recommendations for change to strategy, policy, procedures, services or funding and so has not been subject to an Integrated Impact Assessment. An appropriate senior manager has reviewed and agreed with this assessment.

7. CONSULTATIONS

- 7.1 The Council Leadership Team was consulted in the preparation of this report.

8. BACKGROUND PAPERS

- 8.1 None

SUMMARY OF THE NATIONAL CARE SERVICE (SCOTLAND) BILL

1. POLICY OBJECTIVES AND OVERVIEW

The Scottish Government says that the purpose of the Bill is to improve the quality and consistency of social services in Scotland.

- Part 1 gives Ministers a duty to promote a comprehensive and integrated care service, and gives them powers to achieve that, including making provision for the establishment of care boards to carry out Ministers' functions in relation to social care, social work and community health. Chapter 6 of Part 1 gives Ministers powers to transfer relevant functions from local authorities, including those covering social work and social care for adults and children, including local authorities' role in mental health care, adult and child protection, and justice social work.
- Part 2 allows for information sharing and covers information standards. This is intended to underpin the creation of a nationally-consistent, integrated and accessible electronic social care and health record, to help professionals to support individuals in a more co-ordinated way, and support national and local planning and commissioning.
- Part 3 makes additional reforms to the delivery and regulation of care. It introduces a right to breaks from unpaid caring, and "Anne's Law", to give people living in care homes a right to maintain contact with family and friends. It makes changes to the powers of the Care Inspectorate and Health Improvement Scotland.

The Scottish Government says it is essential that reforms are developed with the people who access support, including unpaid carers, and with those who provide it. The Policy Memorandum associated with the Bill says they are committed to engaging with people with experience to co-design the detail of the new system, to finalise new structures and develop approaches to minimise the historic gap between legislative intent and delivery. For that reason, the Bill creates a framework for the National Care Service, but leaves space for more decisions to be made at later stages and flexibility for the service to develop and evolve over time. Some future decisions will be implemented through secondary legislation, others will be for policy and practice.

The Policy Memorandum sets out the Scottish Government's vision for the National Care Service, that it will:

- enable people of all ages to access timely, consistent, equitable and fair, high-quality health and social care support across Scotland.
- provide services that are co-designed with people who access and deliver care and support, respecting, protecting and fulfilling their human rights.
- provide support for unpaid carers, recognising the value of what they do and supporting them to look after their health and wellbeing so they can continue to care, if they so wish, and have a life beyond caring.
- support and value the workforce.
- ensure that health, social work and social care support are integrated with other services, prioritising dignity and respect, and taking account of individual circumstances to improve outcomes for individuals and communities.

- ensure there is an emphasis on continuous improvement at the centre of everything.
- provide opportunities for training and development, including the creation of a National Social Work Agency providing national leadership, oversight and support.
- recognise the value of the investment in social care support, contribute to the wellbeing economy, make the best use of public funds, and remove unnecessary duplication.

It is intended that the NCS will work in tandem with other work already in progress to implement The Promise, in relation to children's services, and to consider the future model for justice social work. Additionally, a fully integrated NCS would work closely with other services, such as housing, homelessness, education, the justice system, and the Scottish Prison Service to ensure everyone has seamless access to the support they need. The NCS and its care boards will take part in existing joint planning arrangements such as Community Planning Partnerships, Community Justice Partnerships, Children's Services Planning, and Alcohol and Drugs Partnerships.

2. SPECIFIC PROVISIONS

2.1 Part 1: The National Care Service

2.1.1 Principles

Part 1, Chapter 1 of the Bill provides the legal foundations of the National Care Service and defines the principles by which the service will operate.

The Scottish Government says the NCS provides an opportunity to:

- Embed human rights in care support.
- Increase equality and enable people and communities to thrive.
- Ensure that the NCS is an exemplar of Fair Work practices.
- Effectively co-design services with people with lived and living experience.
- Ensure that the care workforce is recognised and valued.
- Improve outcomes through prevention and early intervention.
- Provide financially sustainable care giving security and stability to people and their carers.
- Ensure that the NCS communicates with people in an inclusive way.

Ministers and care boards will be required to reflect these principles through the general duty in Section 2 of the Bill and through their ethical commissioning strategies.

2.1.2 Ministers' Responsibilities

Section 2 of the Bill gives Ministers a duty to provide a care service for Scotland, while Section 3 provides that Ministers are also responsible for monitoring and improving the quality of NCS services.

2.1.3 Structures and Governance

(a) National Level

Section 35 of the Bill makes clear that the NCS will, in practice, comprise a part of the Scottish Government to act at national level and the care boards that will be set up to plan, commission and deliver services locally, to standards set and monitored by Ministers.

At a national level, the Scottish Government intends to establish the NCS either as an Executive Agency or as a part of the core Scottish Government, and for it to be staffed by civil servants. As it will share the legal identity of the Scottish Ministers it does not need to be established in the Bill itself. The care boards will be separate public bodies accountable to Ministers and have their own legal identity. It is also expected that the NCS nationally will take over the existing responsibility for community health, in order to deliver effective integration at national as well as local level.

At national level, the NCS will:

- Provide leadership, oversight, and accountability for community health and social care, including by providing strategic direction and planning at the national and regional levels, and performance management and monitoring of the care boards to ensure national standards and expectations are achieved, albeit in a way that suits local circumstances.
- Uphold the principles and develop and adhere to the charter of rights for people who access care and support and ensure human rights is embedded throughout its work.
- Create, manage and promote national social care policies, setting national standards and developing practice standards, models and guidance to improve access to care.
- Create a Structure of Standards and Processes for ethical commissioning and procurement to support the principles and other important priorities, such as decarbonisation and the circular economy.
- Support Fair Work in social care, and carry out workforce planning.
- Include the National Social Work Agency to support and invest in the social work profession.
- Plan, commission, and procure complex and specialist services at the national level.
- Develop and maintain a national system for effective complaints and redress for NCS services.

Under the NCS, services will continue to be designed and delivered locally because the care boards will plan and commission services for their local area. Health services will continue to be delivered by the NHS, as commissioned by the care board. For social care services currently provided in-house by local authorities, that may continue under a commissioning arrangement with the care board, or the care board may take over direct delivery, with staff transferring to the care board. These will be decisions to be taken locally as the care boards are established. Once the structure and governance of care boards and their localities have been decided, decisions about the employment of staff will be made.

The Bill also enables Ministers and care boards to:

- Conduct or assist others to conduct research.
- Provide training and development to the workforce.

- Provide financial and other assistance to voluntary organisations or others involved in social care.
- Acquire and dispose of land.

(b) Care Boards

Sections 4 and 5 of the Bill make provisions about care boards, including their establishment and abolition. Sections 7-9 describe the strategic plan that a care board is required to have. Sections 14-17 describe Ministers' powers to intervene in relation to care boards. Chapter 5 of Part 1 relates to other functions connected to the provision of care that Ministers and care boards can carry out, such as research. Chapter 6 confers powers on Ministers to determine which functions should be exercised by which NCS institution, and to transfer people and property in regard to those transfers. Schedule 1 of the Bill makes further provision about care boards, including their general powers, committees and sub-committees, accounts and annual reporting, membership and staff. There is also provision for "special care boards" to deliver national functions if needed.

The relationship between Ministers and the care boards is expected to work in a similar way to health boards. It will see a regular cycle of reporting and monitoring of performance and oversight of expenditure. Section 16 requires a care board to comply with Directions which may be issued by Ministers.

The Bill sets out a framework for how the new bodies will be constituted, and how they will operate and deliver services. Further detail will be set out in secondary legislation and Ministerial directions following further consultation and co-design with key stakeholders, to determine more detail in relation to:

- The number of care boards and the geographic areas they will cover.
- The membership of the boards and their relationship with the national NCS structures.
- The duties, functions and services they will provide, both directly and commissioned from other bodies.
- Workforce, employment and contractual arrangements (including transfer of staff from local authorities).
- Maximising opportunities for collaboration and co-operation between care boards and other bodies, including local authorities, NHS boards and independent and third sector bodies.

Chapter 4 of Part 1 of the Bill makes provision for Ministers to take appropriate action in the event that things go wrong. This includes the power to hold an inquiry into a care board and remove its members. Ministers will also be able to direct that any social care function within the remit of the NCS is delivered by another care board or by Ministers themselves in the event of an emergency or service failure.

2.1.4 Additional National Functions

(a) Improvement

Section 3 of the Bill gives Ministers responsibility for ensuring that there is continuous improvement in the way that the National Care Service delivers services.

The Scottish Government says there is evidence of many improvement programmes across government and within the wider social care support landscape, but less evidence of how areas for improvement are identified, how data requirements are recognised or data is collated, how good practice is shared, and how impact is evidenced on a national basis. They say giving

Ministers responsibility will support the prioritisation of improvement work with a focus on evidence, informed action, and clear monitoring to ensure demonstrable impact at a national level, and will support the development of a national framework that has:

- an agreed vision and common understanding of improvement.
- evidence informed action, co-ordinated around the key themes.
- agreed improvement principles and an improvement model.
- a consistent way of measuring improvement.

A collaborative approach will be taken to developing a national framework via a multi-agency steering group co-chaired with COSLA and SOLACE and the establishment of a lived experience panel.

(b) National Social Work Agency

A National Social Work Agency (NSWA) will be established as part of the NCS at national level, given the important function that social work will have within the wider NCS structure. Since the policy intention is for the NSWA to be established within Government as part of the NCS structure, no separate provision within the Bill is necessary, but it is mentioned here to explain the overall policy objectives of the Scottish Government as regards the NCS and the Bill.

Under current arrangements, there is no single national body which has oversight and leads social workers' professional development, education, improvement, data and workforce planning. Terms and conditions are set by individual employers. The majority of social workers are employed by councils, resulting in local variations in pay and grading, making it difficult to have an overview of the sector, and to report on and strategically plan the social work workforce.

The NSWA's objectives will be to support and invest in the social work profession by providing national leadership, and overseeing and supporting social work in the following areas:

- education (pre and post-qualifying).
- improvement (by establishing a Centre of Excellence) and scaling up good practice.
- workforce planning.
- training and development.
- social work terms and conditions (including pay).

(c) Workforce Planning

Workforce planning does not have specific provisions in the Bill, but again is mentioned here to help explain the overall policy proposals for the NCS and the NSWA in relation to national oversight of workforce planning and data for the social work and social care workforce.

The Scottish Government says it has proven difficult to take an active role in influencing and directing workforce planning due to the sheer number of social care providers and current lack of directive powers. Consequently, it is proposed that the NCS will have national oversight of workforce planning for the social work and social care workforce. Within the NCS, the NSWA will lead on workforce planning for social workers and social work students.

2.1.5 Strategic Planning and Ethical Commissioning Strategies

Chapter 2 of Part 1 of the Bill requires that each care board must have a Strategic Plan, which sets out their vision, objectives and budget for their area. Ministers will review and approve these Plans against statutory guidance, which will be co-designed with stakeholders.

The Bill also sets out that each care board must have an ethical commissioning strategy within their Strategic Plan, which sets out arrangements for providing services and how they have been designed to ensure they reflect the NCS principles. Ministers must also have an ethical commissioning strategy for any services provided at the national level. Both Ministers and care boards must consult publicly on their draft strategies, and make the latest version public. Local care boards must also consult their community planning partners and neighbouring care boards.

Ethical commissioning strategies will enable the NCS to implement Fair Work and the other NCS principles.

Ministers will have additional statutory mechanisms to ensure that care boards act consistently when it comes to implementing the principles through their ethical commissioning strategies:

- Ministers must approve care boards' Strategic Plans including their ethical commissioning strategies, and so will need to be satisfied that the ethical commissioning strategy is consistent with the principles. Once an ethical commissioning strategy is confirmed, the care boards will have a legal duty to deliver services in accordance with it.
- Ministers will also have a power to direct care boards in the exercise of any of their functions. This could be used to give more direction in respect of their ethical commissioning strategies. Again, the care boards will be under a legal duty to comply with such ministerial directions.

The Scottish Government proposes that the NCS will (separately to the Bill process) develop and manage guidance in the form of a National Structure of Standards and Processes for ethical commissioning and procuring of social care services and supports.

2.1.6 Ethical Procurement

If the commissioning process determines that a service should be procured from an external provider (rather than being secured by in-house provision, or through partnerships, alliances or grants to external providers), procurement is the process of engaging collaboratively with the market, strategic partners, and representatives of those who access and provide the services, to deliver the commissioning strategy, policy, and service in practice. Ethical and Sustainable Procurement ensures that these are not only delivered to the right quality, in a timely, efficient, legal, and commercially sustainable way, but that the Scottish Government uses the power of procurement to meet those broader social, economic and environmental objectives agreed in the vision.

Under the NCS, care boards will have responsibility for the majority of social care procurement. It is proposed that the NCS should arrange specialist and complex services which could require input from a range of public sector organisations, nationally and on a 'once for Scotland' basis.

2.1.7 Fair Work

The Scottish Government is seeking to improve Fair Work practices consistently across the social care sector. The Bill proposes to include Fair Work within the guiding principles of the NCS and establish the NCS as an exemplar of Fair Work. Ethical commissioning strategies will also be a key tool for ensuring Fair Work is embedded in the way services are planned and provided.

2.1.8 Inclusive Communications and Independent Advocacy

The NCS principles (Section 1 of the Bill) include provision that the NCS (and those providing services on its behalf) are to communicate with people in an inclusive way. Ministers will also be able to direct care boards, if necessary, on the detailed implementation of inclusive communication.

Consistent with the human rights-based approach to the development of the NCS, determining how independent advocacy services should be provided will be done through co-design with people with lived or living experience of accessing services. Section 13 therefore provides for regulations to be made in respect of independent advocacy, which will allow for the results of the co-design process to be implemented and for the policy to be adapted in future to meet new and emerging advocacy needs.

2.1.9 Charter and Complaints

(a) Charter of Rights and Responsibilities

A fundamental tenet of the human rights-based approach to the NCS is providing accountability to those accessing support and empowering them to claim their care-specific rights. Central to this is the development of a Charter of Rights and Responsibilities co-designed with those with lived or living experience. The Charter will set out what people can expect from the NCS and provide a clear pathway to recourse should their rights not be met.

Chapter 3 of Part 1 of the Bill requires Ministers to prepare and publish the Charter following appropriate consultation and engagement, including those with lived experience. As a minimum the Charter will set out:

- The rights and responsibilities of those who access community health and social care services.
- The processes available for ensuring these rights are upheld.

(b) Complaints

Sections 14 and 15 of the Bill aim to strengthen complaints and redress systems for the NCS and wider social care services through a range of measures, including:

- Placing an obligation on Ministers to ensure there is a single point of access for complaints in relation to NCS services and that complaints made through this portal are passed on to those best placed to deal with them. This will make it easier for service users, who may be unsure to which body their complaint should be directed, to register complaints and should result in complaints being addressed more promptly by the appropriate body.
- A power for Ministers to make regulations in relation to the handling of complaints about NCS services and/or wider social care services.

As with the Charter, the Scottish Government will co-design to strengthen the complaints system with those with lived experience. The Bill therefore contains an overarching power to make provision by secondary legislation to implement any further reforms agreed as part of the co-design process.

The direction-making power for Scottish Ministers (Section 16 of the Bill, paragraphs 62 and 99), will also be used to ensure care boards and their service providers also have suitable complaints systems, with the directions incorporating guidance on best practice complaints systems.

2.1.10 Powers to Intervene with Contractors

Under Sections 20-22, Ministers will also have emergency powers to intervene in an agreement with a third party for social care, in line with their overall accountability for the quality of social care provision. Ministers would be able to issue guidance, to which third party providers must have regard to when delivering the service, and would have power to provide assistance, give direction or intervene.

2.1.11 Transfer of Functions

A core element of creating the NCS is that Ministers will be ultimately accountable for social care support, as they are already accountable for health services. Chapter 6 of Part 1 of the Bill gives Ministers power to transfer statutory functions to themselves or to a care board. This will provide the basis for the NCS to deliver services. Section 27 limits the functions that can be transferred from a local authority to functions under the enactments listed in Schedule 3. This list is based on the local authority functions which are able to be delegated to Integration Authorities under the 2014 Act. The enactments cover functions relating to social work and social care for adults and children, including local authorities' role in mental health care and adult and child protection, and justice social work.

Section 28 gives Ministers power to designate or transfer health functions to the NCS, in order to build on the integration of health and social care services, and Section 29 allows Ministers to reorganise functions within the NCS in future. Staff and property can be transferred alongside the functions to which they relate.

The detailed transfer of functions will be set out in regulations when care bodies are established. This provides the opportunity to make careful arrangements before any transfer to ensure joined up working continues, for example by adjusting arrangements for multi-agency partnerships or committees. Planning for the transfer of functions will also need to take into account ongoing reviews or programmes of improvement.

The Bill enables children's services and justice social work to be brought into the NCS alongside adult social work and social care. The creation of the NCS will be a significant change in the way that these services are organised in some areas, since children's services and justice social work are not delegated to Integration Authorities in all areas, and the Scottish Government says it is important that the risks, opportunities, costs and benefits are fully assessed before a decision is made to implement the transfer. Recognising that further evidence and consideration is needed before a transfer of children's services and justice social work, the Bill requires Ministers to carry out further consultation on any transfer of these services from local authorities. A summary of the consultation process and responses must be laid before the Parliament before any transfer takes place.

2.1.12 Specific Functions

(a) Justice Social Work

Justice social work (JSW) services, with support from partners, are responsible for:

- assessments and reports to assist decisions on sentencing.
- court services to assist those attending court.
- group work interventions to address offending behaviours using intervention programmes
- bail information and supervision services as an alternative to custodial remand.
- supervising people on social work orders to tackle offending behaviour and its causes.

- supervising people who are required to perform unpaid work for the benefit of the community.
- prison-based justice social work services to those serving custodial sentences that involve statutory supervision upon release.
- preparing reports for the Parole Board to assist decisions about release from prison.
- throughcare services including parole, supervised release and other prison aftercare orders to ensure public safety.
- working collaboratively with justice partner agencies through the MAPPA.

Section 27 and Schedule 3 of the Bill include powers enable a transfer of responsibilities in relation to justice social work. The Scottish Government considers that including these services within the NCS, could contribute to ensuring consistency of access to justice-related services across Scotland and tackle issues regarding minimum standards, resourcing and arrangements to support delivery of effective, person-centred services. In particular, it is anticipated that the benefits of inclusion would include:

- More consistent delivery of justice social work services.
- Stronger leadership and greater accountability.
- Keeping social work together.
- Better links to public health services.
- Building on existing integration.

Given that justice social work was not considered as part of the Independent Review of Adult Social Care, however, the Scottish Government says it is important that the risks and opportunities, costs and benefits are fully assessed before a decision is made to implement the transfer. The intention is that a preferred model of delivery will be co-designed with stakeholders, backed by relevant assessment of evidence, and will be subject to consultation, Parliamentary scrutiny and approval before any transfer takes place.

Section 30 of the Bill requires Ministers to consult publicly about any proposed transfer relating to justice services using the enabling power before regulations are brought forward. When laying draft regulations to transfer JSW functions, Ministers must also lay before Parliament a summary of the process by which they consulted and the responses they received.

The potential inclusion of JSW in the NCS also has implications for the wider model of community justice. To ensure the potential integration of JSW in NCS is as effective as possible, a process of assessment and co-design around proposed delivery arrangements for JSW services and the model of community justice will be undertaken. Timing and methodology will be subject to further engagement with relevant stakeholders.

(b) Children's Social Work and Social Care

The Public Bodies (Joint Working) (Scotland) Act 2014 allows local authorities choice in the integration of children's social work and social care services ("children's services") with other services, by delegating those services to Integration Authorities. Some local authorities have chosen to do so and others have not. Health boards have also taken different approaches to the integration of children's health services. Some health boards have delegated all of their community health services for children and Child and Adolescent Mental Health Services, others have delegated some services for children, while other health boards have not delegated any. This has resulted in a complex landscape across Scotland for delivering children's services and health services.

As well as variation in the governance structure and integration of services, decision-making responsibility sitting at local level means that services, resourcing and thresholds vary across local authority areas, which means that the services received by children and families differ depending on where they live. It also means that the roles, responsibilities, workloads and experiences of the workforce can differ depending on where they work.

19 Integration Authorities have at least some health services from children delegated to them by health boards and 10 have children's social work and social care services delegated to them by local authorities. The establishment of the NCS will therefore affect children's services.

The Scottish Government say a number of reports and inquiries in recent years have identified the need for improvement in children's services. This, along with the changed landscape of services which the NCS will create and the interdependency between adult care and children and their families, have led the Scottish Government to consider whether the NCS should also include children's services. They say that including adult social services only could have adverse consequences for the provision of holistic family services, and that in many areas there are existing concerns around access to and communication between adult and children's services where an adult's behaviours may be posing a risk to a child.

The Scottish Government says its key objective for children's services is keeping The Promise and delivering a care system for children and young people which gives them what they need to thrive. They feel that the statutory requirements for joint working that were put in place prior to the Independent Care Review, aimed at achieving greater collaboration between agencies, have not achieved the degree of collaboration necessary, and that the integration of children's services with adult and community health services in the NCS could provide a structure and system in which The Promise can be delivered and maintained more effectively than out with the NCS. The NCS model could also improve services for disabled children and children with health issues. However, they acknowledge that a better understanding of the current landscape is needed first to help the Scottish Ministers assess the best way to deliver the ambition of The Promise and improve outcomes for children and their families more broadly.

While the Scottish Government considers there is a strong rationale for including children's services, it accepts that, as the Independent Review of Adult Social Care did not consider children's services, the same evidence base as exists for adult services is not currently in place for the proposal to include children's services in the NCS.

To fully consider the potential benefits and challenges of locating children's services in the NCS, a programme of work will be taken forward to gather evidence on the impact of the integration of services and the changes that creation of the NCS will bring, given the connections between services for children with adult social work and social care. A crucial aspect of this will be to assess implementation of The Promise in both integrated and non-integrated areas. The Bill provides the power to transfer functions relating to children's services in order to ensure that consideration, design and decision-making regarding children's services can align with the NCS as a whole, and the Scottish Government says that including functions for children's services within the power to transfer under Section 27 of the Bill ensures these services can be transferred at the optimal stage for children's services.

The requirement in Section 30 for Ministers to consult publicly about any proposed transfer relating to children's services before regulations are brought forward reflects the intention that a programme of work will be completed to gather evidence on, and assess, current models of children's services. The outcomes of this work will then be considered and stakeholders and children and young people will be consulted as part of the decision-making process before any regulations to implement a transfer are introduced to Parliament.

Transferring children's services to the NCS would include services such as:

- Social work services for children and families and related social care services such as residential child care provision;

- Provision of services which support families in the community to prevent children being brought into care;
- Provision of services and supports to care experienced children and young people;
- Any service which provides support to children and young people and where there may be a change to support service during the transition period from child to adult services and the young person requires ongoing support in respect of wellbeing needs (e.g. disability, mental health, alcohol/substance use);
- Youth Justice services.

(c) Adult Support and Protection

Schedule 3 of the Bill includes provision for all Adult Support and Protection (ASP) functions and duties which Councils and Council Officers hold to transfer to the NCS and its officers. The National ASP Improvement Plan will continue to deliver improvements at national level, including strengthening the guidance in the short to medium term, where relevant, and those improvements will transfer into the NCS in due course.

(d) Mental Health

The creation of the NCS means that current integration arrangements between health and social care will change. For mental health, the Scottish Government see this as an opportunity to address existing concerns around parity between the NHS, local authorities and the IJB, and between mental and physical health.

The intention is that the duties of social work and social care service for those with mental health requirements will transfer from local authorities to the NCS - to reflect the wider transfer of duties around social care and social work.

The Bill gives Ministers power to move functions between public bodies as they see fit to best deliver the services. The Scottish Government says that transferring relevant mental health services to the NCS will promote a more integrated and matched care approach to a range of mental health needs and has the potential to reduce inter-organisational boundaries between care providers.

In order to fully consider the potential benefits and challenges of locating children's mental health services in the NCS, these services will be included in a programme of work to gather evidence on the impact of integration across wider children's services, including children's health services, social work and social care. Before exercising any of the relevant enabling powers in the Bill in relation to the inclusion of children's health services, Ministers will carry out a review of this evidence and a further consultation with stakeholders, children and young people, parents and carers and then make a final decision on inclusion.

(e) Alcohol and Drugs Support

The Scottish Government says the creation of the NCS provides an opportunity to reform how services relating to alcohol and drugs are provided and commissioned. Integration Authorities currently have responsibility for directing and commissioning alcohol and drugs support for people and their families, as part of their responsibility for adult health and social care. Alcohol and Drugs Partnerships are currently co-ordinated by IJBs, and the Scottish Government says that including alcohol and drugs provisions in the NCS was widely supported in the consultation.

The Policy Memorandum associated with the Bill says that people impacted by alcohol and drugs often have wider needs including mental health needs and are more likely to be in contact with justice services. Meeting these multiple, complex needs will be easier through an integrated care service rather than through multiple separate services, and reducing restrictions around information sharing and removing transitions between services will have benefits for people and for those who provide support.

(f) Homelessness

Schedule 3 of the Bill does not include the Housing (Scotland) Acts of 1987, 2001 or 2006, which are included in the functions which can be delegated to Integration Authorities on a voluntary basis under the 2014 Act. The Scottish Government notes that functions in relation to homelessness have been delegated in very few areas, and are considered to fit more appropriately with housing functions. It is recognised, however, that the NCS will need to work closely with housing and homelessness services to ensure people's needs are met. It is expected that the NCS will be involved in joined up planning to tackle homelessness, and will be subject to the shared prevention duty that the Scottish Government is committed to develop under the Ending Homelessness Together Action Plan.

2.2 Part 2: Health and Social Care Information

Part 2 of the Bill relates to health and social care information. Section 36 gives Ministers power to establish a scheme for sharing information to improve the efficiency and effectiveness of NCS and NHS services. Section 35 makes provision about information standards which will support information sharing.

The Scottish Government say the NCS consultation noted that although a great deal of social care data currently exists, it is not always easily accessible or used to best effect. The consultation posited the creation of a nationally-consistent, integrated and accessible electronic social care and health record that could be used and seen by all those who provide health and care support, with appropriate permissions put in place to control who can see what information. This would provide a national framework that allows for person-centred data and information to be shared safely and securely. Primary legislation is not required to create the record, but secondary legislation is required to enable information sharing and ensure consistent information standards. More broadly, data and digital will be a key enabler of the NCS by enabling ethical commissioning, underpinning regulation and improvement, supporting workforce planning, facilitating research, and ultimately supporting people to live fulfilling, independent lives. Through work on secondary legislation the Scottish Government will develop further assessments of the data protection impact and specifics of data controller responsibilities.

Under Section 36, the Scottish Ministers will have a power to set up a statutory scheme through regulations to permit data sharing for the efficient and effective provision of services by, or on behalf of, the NCS and NHS. This is needed to facilitate the creation of the record which provides a significant opportunity to address the current issues around information sharing, and ensure professionals get timely and accurate information to enable them to safeguard people at risk of harm and provide the highest levels of care. It will also empower people around their own care and data and address concerns around service users having to tell their story to multiple providers.

Section 37 will give Ministers the power to set information standards, (covering data and digital) which will set out how certain information is to be processed and will be made publicly available. Setting out standards in this way will allow technical detail to be included and be updated more flexibly as required compared to setting the standards themselves in legislation. Setting information standards is important to improve equality for service users, and also to improve the quality of data used for secondary purposes such as national and regional oversight, planning, commissioning and procurement, regulation, research and national reporting.

2.3 Part 3: Reforms Connected to Delivery and Regulation of Care**2.3.1 Rights to Breaks for Carers**

Section 38 of the Bill makes changes to the Carers (Scotland) Act 2016 to ensure that the need to take sufficient breaks from caring is identified in a carer's Adult Carer Support Plan or a young carer's Young Carer Statement. It also gives local authorities (until the NCS is established) a duty to provide the necessary support.

Existing powers can be used for Ministers to maintain a national short breaks fund to enable easy-access support for people in less intensive caring roles. Unpaid carers already have rights under the Carers (Scotland) Act 2016 to a personalised plan to identify what is important to them and their needs for support. Carers also have the right to support to meet their eligible needs and authorities must consider whether that support should include a break from caring. However, despite these rights, the Scottish Government says relatively few unpaid carers (around 3%) receive statutory support for breaks from caring.

2.3.2 Visiting Care Home Residents (“Anne’s Law”)

Section 40 of the Bill sets out that Ministers will have a power to require providers of care home services to comply with any direction Ministers make about visits to residents of care home accommodation or by such residents. Ministers must consult with Public Health Scotland and any other person Ministers consider appropriate before issuing a visiting direction. Ministers will also have power to vary or revoke a visiting direction.

The development of “Anne’s Law” on visiting care home residents followed a petition to the Scottish Parliament on behalf of Care Home Relatives Scotland which was lodged by a woman who was unable to see her mother for prolonged periods during the height of the pandemic.

The Scottish Government’s policy objective is to ensure that providers and public health teams give effect to visiting rights and to remove variation in practice in the sector including the use of blanket visiting bans by care home providers. In practice this will mean visiting will always be supported in line with directions issued by the Scottish Ministers.

2.3.3 Reserving Contracts for Voluntary Organisations

The Public Contracts (Scotland) Regulations 2015 impose obligations on public bodies in relation to how they award public contracts for the execution of works, the supply of products and the provision of services. Section 41 of the Bill amends the 2015 Regulations to insert a new regulation which will allow, in certain circumstances, the list of bidders for a contract to be limited to those who meet a particular description.

The Scottish Government recognises the role which voluntary and third sector organisations can offer alongside other sectors in supporting the NCS ambitions, and therefore see merit in providing the option for contracting authorities to reserve procurement processes to mutual ‘not for profit’ organisations when contracting for social care provision.

2.3.4 Regulation of Social Services - Care Inspectorate Enforcement and Related Powers

Sections 42 and 43 make provisions related to the Care Inspectorate (CI), as the independent regulator and scrutiny body for social care services:

- To set out further criteria to determine when the CI might propose to cancel a service’s registration, including on the basis of previous enforcement action.
- To enable Healthcare Improvement Scotland (HIS) to provide assistance to the CI in carrying out an inspection.

There is a concern about providers who operate, often for lengthy periods, with inconsistent quality and levels of service. At present providers who fail to meet the required standards can be issued with an improvement notice which allows them a set amount of time to meet the requirements as detailed in the notice. A failure to do so could result in escalation and a move by the CI to make an application to cancel the care service’s registration.

In practice, where an improvement notice has been issued requiring significant improvement within a specified timescale, certain providers act to implement only the bare minimum and maintain this for only a very short time, i.e. during inspection. That is not the intention of the improvement notice process, which aims to bring the relevant care service back up to the expected standard it is required to maintain throughout the lifetime of the registration. There is

a continual duty under legislation for care service providers to provide a quality service, but the CI's current powers and the improvement notice process appears to have little effect for repeat offender providers.

Although the CI, in certain circumstances, may propose to cancel a registered service once the required timescale for improvement has passed, that proves difficult in the face of providers who claim to be attempting improvement, offer mitigation as to why quality has not been maintained, or challenge the assessment.

Section 42 is intended to allow the CI to forgo the issue of an improvement notice in cases where it is their professional judgement that the service/provider is not in a position to meet and sustain the requirements of an improvement notice. The CI would instead make an application to the Sheriff Court to cancel the registration. The basis on which it reaches this view regarding the provider may include criteria such as the fitness of the provider or past performance. The new powers would mean that the CI can act more effectively and quickly than at present to tackle consistently poorly performing and inadequate care services.

Section 43 introduces a new power (under the Public Services Reform (Scotland) Act 2010) for HIS to provide assistance to CI in carrying out an inspection. During the pandemic, a "joint arrangement" way of working was established between the CI and HIS. Staff from HIS were seconded to CI with the objective of assisting the CI with the clinical aspects of inspections of care homes (e.g. infection prevention and control) under Part 5 of the 2010 Act. This provided increased additional capacity to the CI during the pandemic. The Scottish Government understands that HIS staff participated in around 30% of CI inspections of care homes in this time. However, an issue arose during the pandemic in relation to "joint working" on inspections which created uncertainty around the legal basis for continuing with these arrangements. One interpretation was that the CI was only able to authorise its Chief Executive Officer, employees or committees to carry out its inspection functions. This new power is being introduced to address any perceived risk around the legal basis on which HIS could assist CI with inspections.

3. Policy Memorandum

The Policy Memorandum associated with the Bill acknowledges that the Bill will affect local government in Scotland, as it makes provision for local authorities' responsibilities for social services to be transferred to the Scottish Ministers and to care boards.

The nature of the impact on local government from the establishment of the NCS will depend on the details of the transfer of functions to Ministers, and on local decisions about how services are to be provided. The Scottish Government says it is not possible to fully quantify these impacts until decisions are taken on what services are to be included in the NCS, when the transfer is to take place and how the transition process will be staged. The Scottish Government will work with COSLA to identify the implications at the appropriate time, and further impact assessment information will be developed alongside the relevant secondary legislation.

4. Financial Memorandum

A Financial Memorandum has been prepared by the Scottish Government to set out the costs associated with the measures introduced by the Bill. It does not form part of the Bill and has not been endorsed by the Parliament.

The estimated cost of the Bill provisions is set out starting in 2022/23 with a cost in the range of £24m to £36m rising to between £241m to £527m in 2026/27. It also estimates the costs of providing the services that could be transferred to care boards would be circa £16,067m by 2026/27, this includes Children's services.

In relation to Local Authorities the Financial Memorandum says:

"The transfer of functions from local authorities in particular may have additional financial implications. These may include, for example, costs for the transition process, but there may

also be potential savings on central services such as finance, digital systems and premises, if a significant number of staff move to the NCS. These costs and savings will depend on what services are to be included in the NCS, when the transfer is to take place and how the transition process will be staged. The Scottish Government will carry out thorough options appraisal, working with COSLA, to identify these financial implications at the appropriate time and inform the approach taken. Further information will be provided to the Scottish Parliament when the relevant secondary legislation is brought forward”

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AREAS IN THE COUNCIL'S RESPONSE TO CONSULTATION ON THE NATIONAL CARE SERVICE WHICH HAVE BEEN CLARIFIED BY PUBLICATION OF THE BILL OR REMAIN TO BE DECIDED

TOPIC	KEY POINTS FROM THE COUNCIL'S RESPONSE TO THE CONSULTATION	ISSUES CLARIFIED OR STILL TO BE DECIDED
Overall Principles of the NCS	<p>The Council's response to the consultation noted that there would be widespread agreement to many of the principles relating to improving social care, in particular the emphasis on ensuring that care is person-centred, human rights based, reflects the lived experience of those who rely on services, and is seen as an investment in society.</p> <p>The response noted that there was likely to be a debate about whether large-scale structural change was essential to achieve the necessary improvements, or whether these could be delivered by strengthening existing structures and partnership working.</p>	<p>The underlying principles previously supported by the Council are confirmed in the Policy Memorandum associated with the Bill.</p> <p>The Bill makes clear that the Scottish Government is proceeding with plans for significant structural change to achieve its objectives.</p> <p>However, the Scottish Government say it is essential that reforms are developed with users and providers. They are committed to engaging with people to co-design the detail of the new system and finalise new structures. The Bill therefore creates a framework for the National Care Service, but leaves space for more decisions to be made at later stages through co-design, some of which will be implemented through secondary legislation while others will be for policy and practice.</p> <p>To design and establish the NCS, the Scottish Government has set up a steering group which includes people with experience of social care. As the operational processes are being established, this group is intended to provide feedback and challenge to ensure that the new service is designed around the needs of people who access social care and supports the needs of unpaid carers and care workers.</p>
Governance and Accountability	<p>The proposals outlined in the consultation signalled a significant change for local government and local democratic accountability, with a range of current Council services potentially shifting to come under the direct accountability of Ministers, impacting on local accountability and the role of democratically elected representatives in overseeing vital local services.</p> <p>In addition, our response pointed out that the Social Work (Scotland) Act 1968 requires local authorities to appoint a</p>	<p>The NCS makes Scottish Ministers accountable for social care support, as they already are for health. The Bill gives Ministers power to transfer statutory functions to themselves or to care boards.</p> <p>The detailed transfer of functions will be set out in regulations when care bodies are established. The Scottish Government says this provides the opportunity to make careful arrangements before any transfer to ensure joined up working continues, for example by adjusting arrangements for multi-agency partnerships or committees.</p>

	<p>single Chief Social Work Officer (CSWO) for the purposes of listed social work functions, and there was little mention of this statutory role within the consultation document, which appeared to be a significant omission with regards to proposed changes to governance arrangements.</p>	<p>The Bill sets out a framework for how the new care boards will be constituted, and how they will operate and deliver services. However, further detail will be set out in secondary legislation and Ministerial directions following further consultation and co-design with key stakeholders, to determine more detail in relation to things like the number of care boards, the geographic areas they will cover, the membership of the boards and their relationship with the national NCS structures.</p> <p>The Bill currently does not stipulate that local elected members would have any designated role in the new care boards, Scottish Ministers will be responsible for appointing chairs and members.</p> <p>Neither the Bill nor the accompanying explanatory notes or policy memorandum make any reference to the role of the CSWO.</p>
Use of Data	<p>The proposed creation of an integrated health and social care record was welcomed in the Council's response, which noted there is currently a plethora of different health and social care systems and that previous attempts at developing a single system have failed for a variety of reasons. Our response said improved data sharing agreements, focused on the effective sharing of outcomes-focused data and minimisation of duplication, would be welcomed regardless of whatever changes were made to governance arrangements.</p>	<p>The Bill gives Ministers power to establish a scheme for sharing information to improve the efficiency and effectiveness of NCS and NHS services.</p> <p>It also makes provision for regulations about information standards, which will support information sharing by ensuring that everyone records the same information in the same way.</p>
Complaints	<p>The Council's response acknowledged that good complaint handling is essential as part of an overall performance improvement culture, and emphasised the importance of local examination and resolution of complaints within an organisational culture of openness, transparency and reflection.</p> <p>The response queried whether a single centralised procedure would improve the responsiveness of complaints handling, but agreed that the development and communication of a Charter would help communicate rights and entitlements.</p>	<p>The Bill places an obligation on Ministers to ensure that there is a single point of access for complaints in relation to NCS services, but it does say that complaints made through this portal will be passed on to those best placed to deal with them.</p> <p>The Bill also requires Ministers to develop an NCS Charter of Rights and Responsibilities which will be co-designed with those with lived or living experience. The Charter will set out the rights and responsibilities of those who access community health and social care services. and will provide a clear pathway to recourse should their rights not be met.</p>

Fair Work	Proposals in the consultation relating to Fair Work were welcomed as resonating well with Dundee City Council's commitment to fairness and its status as a Living Wage City. From an equality perspective, fair work in social care is particularly important given that a large proportion of the workforce are female and are more likely to experience poverty due to low pay, especially for those who work part time to cover care commitments for children.	The Bill enables the NCS to support Fair Work in the care sector, by including Fair Work within the guiding principles of the service and establishing the NCS as an exemplar of Fair Work. Ethical commissioning strategies will also need to reflect the NCS principles, and will therefore be a key tool for ensuring that Fair Work is embedded in the way services are planned and provided.
Training	The Council's response to the consultation agreed that more consistency regarding professional development and training could have positive outcomes and there was no argument with the consultation document's emphasis on the importance of sharing learning effectively, although the point was made that further discussions would be welcomed about how improvements could develop within the National Care Service.	Although not specifically mentioned in the Bill, the Scottish Government has made clear its intention to establish a National Social Work Agency (as discussed further below) which will support social work in relation to education (pre and post-qualifying), training and development, improvement (by establishing a Centre of Excellence) and scaling up good practice.
Strengthening Regulation and Scrutiny	The consultation response agreed that any steps to improve the speed at which action can be taken against poor performing services would be welcome, and that a system that focusses on supporting sustained improvement in service provision would be beneficial to service users, commissioners and service providers.	The Bill strengthens regulation and scrutiny by setting out further criteria to determine when the Care Inspectorate might propose to cancel a service's registration, including on the basis of previous enforcement action, without first issuing an improvement notice. It also provides additional powers to enable Healthcare Improvement Scotland (HIS) to provide assistance to the Care Inspectorate in carrying out an inspection where its expertise is need e.g., on infection prevention and control. There are also provisions designed to promote continuous improvement in social care provision.
Role of a National Social Work Agency	It was noted that the consultation document was unclear in relation to the relationship between the proposed National Social Work Agency and the current role of the registration body for social workers and social care professionals (SSSC) and in relation to the role of the professional representative body (Social Work Scotland). The response suggested that the majority of functions proposed for the NSW Agency were already being undertaken and led by national bodies and partnerships, and that all of the options for change would have implications for partnerships and relationships at national and local level.	It is confirmed that a National Social Work Agency (NSWA) will be established as part of the NCS at national level. The NSWA will contribute to meeting Ministers' duties to provide a National Care Service, reflecting its principles and human rights-based approach, and to monitor and improve the quality of the services, since those services are expected to include social work as well as social care. The NSWA's objectives will be to support and invest in the social work profession by providing national leadership, and by overseeing and supporting education, improvement, workforce planning, training and development, and social work terms and conditions. This means there will be at least 5 different national organisations with responsibility and accountability for the delivery and development of social

		work and social care services - the NCS, the new NSWA, the SSSC, the Care Inspectorate and, to a lesser extent, Community Justice Scotland.
Procurement and Commissioning	The Council's response noted that the consultation suggested the NCS would undertake national commissioning activity covering complex care and residential services including the National Care Home Contract, taking over as lead in the establishment and management of arrangements currently undertaken by Scotland Excel. It suggested that the ongoing role of Scotland Excel and its relationship with the proposed National Care Service needed to be further clarified. The response also said there was no detail provided on the balance between local and national commissioning and what 'overseeing' local commissioning would mean in practice. One of the key levers available to local authorities as anchor organisations is to influence and support local economies through targeted procurement spend, so the response suggested caution was needed in that area.	<p>The Memorandum associated with the Bill makes clear that, under the National Care Service, care boards will have responsibility for the majority of social care procurement. It is proposed that the NCS should arrange specialist and complex services which could require input from a range of public sector organisations, nationally and on a 'once for Scotland' basis.</p> <p>There are provisions in the Bill designed to ensure ethical and sustainable procurement.</p> <p>There are no specific references to the role of Scotland Excel or how it will work with the new service.</p>
Widened scope beyond Adult Social Care to Children's and Community Justice Services	The Council's response to the consultation noted that extending structural change beyond the recommendations of the Independent Review of Adult Social Care - and therefore removing local government's responsibilities for services including children's social work and community justice - would represent the biggest change to Councils since 1996, and represented the most contentious part of the proposals. It was noted that, when establishing the integrated health and social care arrangements in Dundee, the set of services to be included within the Health and Social Care Partnership was developed based upon local pathways analysis, and it was decided that children's social work and community justice services would not be included. Indeed, the majority of local authorities did not delegate children's and justice social work to the IJBs. Our response pointed out that the case for retaining these services within local government, or at least allowing local circumstances to determine where best these services should lie in each area, comes from a number of reports and research papers which looked at effective integration and improving outcomes, and concluded that the	<p>The Bill enables children's services and justice social work to be brought into the NCS alongside adult social work and social care.</p> <p>The Scottish Government acknowledges that creation of the NCS will be a significant change in the way that these services are organised in some areas, since children's services and justice social work are not delegated to Integration Authorities in all areas.</p> <p>It therefore says it is important that the risks and opportunities, and the costs and benefits, are fully assessed before a decision is made to implement the transfer. Recognising that further evidence and consideration is needed before a transfer of children's services and justice social work, the Bill requires Ministers to carry out further consultation on any proposed transfer. A summary of the consultation process and responses must be laid before Parliament with the implementing regulations for scrutiny before any transfer takes place.</p> <p>Further detail of the work which will be done to assess the case for transferring these services is given in Appendix One. The consultation promised will provide an opportunity to further express the Council's concerns about uncoupling its integrated children's services.</p>

	<p>solutions go beyond structural arrangements and that positive outcomes are driven by collaborative leadership, effective strategic planning, good governance, performance management and workforce development.</p> <p>Moving additional social work services to the NCS and care boards would involve uncoupling these functions from other services with which Dundee City Council has been seeking to integrate them over recent years. In particular, our Children and Families Service has made considerable progress in outcomes focused, preventative work due to the integration of schools with children and families social work services, and the proposals would change those relationships.</p>	
Drug and Alcohol Services	<p>The Council's consultation response pointed out that people with alcohol or drug issues often face a range of complex and interlinked issues that span a broader spectrum than health and social care, and suggested that the arguments set out in the consultation document reflected too narrow a presentation of the issues. Supporting service users and their families through an acute treatment phase and onto what is often a lifelong recovery journey requires a multi-disciplinary approach that is constructed around the individual and their specific needs. This often involves housing/homelessness services; employability services; education; debt advice; justice services; and many more that predominantly sit within local authorities and the third sector. The response said the business case for the transfer of Alcohol and Drug Partnerships into the NCS was unclear and the proposal merited further detailed consideration through an independent review in its own right.</p>	<p>The Scottish Government says the creation of the NCS provides an opportunity to reform how services relating to alcohol and drugs are provided and commissioned. They say Alcohol and Drugs Partnerships are currently co-ordinated by IJBs, and that including alcohol and drugs services in the NCS was widely supported in the consultation.</p> <p>The Policy Memorandum associated with the Bill says that people impacted by alcohol and drugs often have wider needs including mental health needs and are more likely to be in contact with justice services, and that meeting these multiple, complex needs will be easier through an integrated care service rather than through multiple separate services. It also says that reducing restrictions around information sharing and removing transitions between services will have benefits for people and for those who provide support.</p>
Mental Health Services	<p>The consultation response recommended that further detailed engagement on the inclusion of mental health services and related implications should be carried out if proposals were formalised for their inclusion within an NCS.</p> <p>It was noted that SOLACE and COSLA officers had engaged with mental health stakeholders including ADES, Third Sector</p>	<p>The Scottish Government's intention is that the duties of social work and social care services for those with mental health requirements will transfer from local authorities to the NCS - to reflect the wider transfer of duties around social care and social work.</p> <p>The Scottish Government says that transferring relevant mental health services to the NCS will promote a more integrated and matched care</p>

	<p>providers, The Royal College of Psychiatrists, CAHMS, IJBS, Police Scotland as well as those delivering mental health services within local authorities, and that those organisations had identified a risk that the needs of children would not be a priority and that there was a lack of appetite for the scale of structural reform to mental health services which the consultation outlined.</p>	<p>approach to a range of mental health needs and has the potential to reduce inter-organisational boundaries between care providers.</p> <p>Picking up the specific concern about the mental health needs of children, the Policy Memorandum says that, in order to fully consider the potential benefits and challenges of locating children's mental health services in the NCS, these services will be included in a programme of work to gather evidence on the impact of integration across wider children's services, including children's health services, social work and social care. Before exercising the enabling powers in the Bill in relation to the inclusion of children's health services, Ministers will carry out a review of the evidence and a further consultation with stakeholders, children and young people, parents and carers before making a final decision on inclusion.</p>
Homelessness	<p>The Council's response noted that the Housing and Communities service has operated in close partnership with the Health and Social Care Partnership, particularly around homelessness. While new and positive partnerships could be developed within any new structure, there would need to be a consideration of the alignment of the homelessness budget between the NCS/care boards and Housing if responsibilities changed. The response pointed out that Dundee City Council, Dundee Health and Social Care Partnership and 3rd sector partners have developed a fantastic relationship to tackle and respond to homelessness and rough sleeping, which has taken time to nurture.</p>	<p>Functions relating to homelessness are not included within the proposed scope of the NCS as these are considered to fit more appropriately with housing functions.</p> <p>It is recognised, however, that the NCS will need to work closely with housing and homelessness services to ensure people's needs are met, and it is expected that the NCS will be involved in joined up planning to tackle homelessness.</p>
Financial	<p>The Council's response to the consultation noted that there was no financial information provided about the cost of the NCS or how it would be funded, which made it difficult to gauge the scale of proposed investment or assess the adequacy of investment to deliver the proposed outcomes. It noted that centralising services would not in itself provide a solution to the underlying funding issues.</p> <p>The response said discussions would be welcomed to provide greater clarity on funding arrangements for the new service, relative to current local authority expenditure. There could be service areas under consideration where (based on local</p>	<p>The Bill does not specifically cover the funding of the NCS or the financial implications for local authorities of its establishment.</p> <p>There will clearly be financial issues, as the Bill makes provision for local authorities' responsibilities for a range of services to be transferred to Ministers and to care boards. But there remains a lack of detail on how the national system will be financed, and considerable uncertainty about the impact this could have on local authority budgets. The nature of the impact on local government from the establishment of the NCS will depend on the details of the transfer of functions and on local decisions about how services are to be provided. COSLA have expressed concern that the potential mass transfer of functions, staff and properties could threaten councils' sustainability, with the</p>

	<p>decisions) councils currently spend at a level greater than that for which the Scottish Government provide funding support, so if any transfer of responsibilities was determined at an actual rather than funded level this could have direct ramifications for the remaining Council Budget and services. By way of context, in 2021/22 the Council invested some 14% more in the Dundee Health and Social Care Partnership than the funding it received for the services it provides.</p>	<p>potential loss of a critical mass having a significant effect on the ability to maintain other core statutory local authority functions and threatening the viability of some councils as going concerns.</p> <p>The Scottish Government says it is not possible to fully quantify these impacts until decisions are taken on what services are to be included in the NCS, when the transfer is to take place and how the transition process will be staged, but does commit to working with COSLA to identify the implications at the appropriate time.</p>
Support Services	<p>The consultation response noted that Dundee City Council currently provides a number of services that support and enable the Dundee Health and Social Care Partnership to operate effectively. These include Business support (clerical, secretarial and admin support), Health and Safety (risk assessment, accident investigation, infection control, safe systems of work), Procurement, Finance (including insurance and appointeeships), Legal and Democratic services (legal advice and support for committees), Information Technology support, Property (management and facilities), Transportation, Fleet Management and Communications (internal and external). Additionally, Tayside Contracts also provides facilities services (mainly catering and cleaning). There is also a significant range of human resources and organisational development support provided, including recruitment, PVG checks, conduct/performance/grievance/ attendance management, trade union consultation and negotiation, conditions of services, job evaluation, payroll, staffing changes, learning and OD/transformation/ improvement, health and well-being, digital support, newly qualified social workers/registration, workforce planning, youth employability, staff benefits, and occupational health/counselling/ physiotherapy. A range of assets (buildings, fleet, IT, etc) owned by Dundee City Council are also used by Dundee Health & Social Care Partnership in the delivery of their services to citizens. The consultation did not touch upon how such assets, which are used but not owned by H&SCPs, would be dealt with within a National Care Service model i.e. would</p>	<p>The implications for Council employees who currently provide financial, democratic and legal, business support, health and safety, transport, IT and HR services to support the social care function remain unclear, since much of the detail of how the new service will operate has still to be determined.</p> <p>However, the fact that care boards will have their own separate legal status, will employ staff directly, and will not necessarily be set up to mirror the structure of local authorities does further suggest that there are likely be knock-on effects for a much wider range of services than those which will directly transfer as part of the National Care Service.</p>

	they be purchased or leased and how would any debt be serviced in respect of those assets.	
Employees	The consultation response noted that the proposals for the NCS potentially had significant implications for large parts of the Local Government workforce and the consultation document was not explicit regarding the future employer status of staff working in the service areas covered. There was a lack of clarity on the scope and detailed arrangements for care boards - particularly the issue of commissioning vs delivery - and the role of care boards as employers of staff was unclear.	<p>The Policy Memorandum associated with the Bill says that once the structure and governance of care boards and their localities have been decided, decisions about the employment of staff will be made.</p> <p>Workforce, employment and contractual arrangements (including transfer of employees from local authorities) are among the issues which will be covered by further secondary regulation or Ministerial direction.</p> <p>Part 6 of the Bill also sets out a care board may pay or make arrangements for pensions. This could impact on LG pensions schemes.</p>
Community Planning and other partnership working	The Council's response pointed out that the NCS should be required to collaborate with Councils and other community planning partners to deliver on Local Outcome Improvement Plans, and that understanding of impacts on existing linkages with a range of key local services would have to be fully considered, especially where the changes could impact on the ability to deliver very specific or targeted local initiatives and/or a local joined-up approach.	<p>The Policy Memorandum associated with the Bill says the NCS and its care boards will take part in existing joint planning arrangements such as Community Planning Partnerships, Community Justice Partnerships, Children's Services Planning, and Alcohol and Drugs Partnerships, and will work closely with other services, such as housing, homelessness, education and the justice system, to ensure everyone has seamless access to the support they need.</p> <p>Care boards will also have to consult community planning partners on their strategic plans.</p>
Focus during implementation	The Council's consultation response emphasised that care needs to be taken to ensure that a focus on structural change over the coming years does not distract from improving services and outcomes for people now, and in the medium-term.	<p>The Scottish Government says that the priority throughout the implementation of the NCS programme will be the continuity of support for individuals. Phasing of the transfer of functions from 2025-26 will need to be based on delivery readiness assessments, and clear, transparent local transition plans will be developed with partners.</p> <p>This commitment is welcome as the Council has expressed concern that the focus on those in need is not lost in a debate on structural change nor during a challenging transition period.</p>

RESPONSE TO SCOTTISH PARLIAMENT'S 'CALL FOR VIEWS' ON THE NATIONAL CARE SERVICE (SCOTLAND) BILL

MSPs on the Scottish Parliament's Health, Social Care and Sport Committee (and other committees including the Local Government, Housing and Planning Committee) are now looking at the details of the National Care Service (Scotland) Bill and have issued a 'call for views' on what individuals and organisations think about the Bill, including how the proposed law could be improved.

The questions set out in the 'call for views' are listed below, along with proposed responses on behalf of Dundee City Council.

General Questions

Questions	Proposed Response
The Policy Memorandum accompanying the Bill describes its purpose as being "to improve the quality and consistency of social work and social care services in Scotland". Will the Bill, as introduced, be successful in achieving this purpose? If not, why not?	The Bill sets out arrangements for more consistency in the recording and sharing of information, in the rights given to service users, in the training and development of the workforce, and in the sharing of good practice, all of which are clearly designed to assist the consistency and quality of services. However, the extent of improvement will depend on issues such as how the new service is organised in practice and the level of resources made available. As pointed out in the Council's response to the earlier consultation on proposals for a National Care Service, it remains difficult to gauge the scale of likely investment or assess the adequacy of this to deliver the proposed outcomes. Changing responsibility for care services will not in itself provide a solution to the underlying funding issues.
Is the Bill the best way to improve the quality and consistency of social work and social care services? If not, what alternative approach should be taken?	Some of the responses to the earlier consultation made the point that structural changes in themselves would not guarantee improvement, and that factors such as collaborative leadership, effective strategic planning, good governance, performance management and workforce development are crucial to determining outcomes.
Are there any specific aspects of the Bill which you disagree with or that you would like to see amended?	As explained further below, the Council does have a concern that including children's social work and community justice services in the scope of the Bill may have an impact on work it has done to integrate these services with other Council functions.
Is there anything additional you would like to see included in the Bill and is anything missing?	The Bill should include confirmation of the geographic areas and number of care boards. Dundee's response to the consultation set out that care boards should be aligned with local authority boundaries, unless otherwise agreed at a local level and that board

	<p>members should include local elected members to preserve local democratic accountability and oversight of vital local services.</p> <p>The Social Work (Scotland) Act 1968 requires local authorities to appoint a single Chief Social Work Officer (CSWO) for the purposes of listed social work functions. In our response to the consultation we pointed out that there was little mention of this statutory role in the consultation and that this was a significant omission with regards to any proposed changes to governance arrangements. It would appear that the Bill still does not clarify where or what the role of the Chief Social Work Officer is in the proposals for change?</p>
<p>The Scottish Government proposes that the details of many aspects of the proposed National Care Service will be outlined in future secondary legislation rather than being included in the Bill itself. Do you have any comments on this approach? Are there any aspects of the Bill where you would like to have seen more detail in the Bill itself?</p>	<p>Secondary legislation may not receive the same level of detailed scrutiny as the Bill itself, which is crucial given that so many aspects of the National Care Service, including fundamental issues about its scope, governance and financial arrangements, remain to be decided.</p>
<p>The Bill proposes to give Scottish Ministers powers to transfer a broad range of social care, social work and community health functions to the National Care Service using future secondary legislation. Do you have any views about the services that may or may not be included in the National Care Service, either now or in the future?</p>	<p>Extending structural change beyond the recommendations of the Independent Review of Adult Social Care - and therefore removing local government's responsibilities for children's social work and community justice - would represent the biggest change to local government since 1996, and represents the most debated aspect of the proposals. As in the majority of other areas of Scotland, when arrangements for the integration of health and social care arrangements were established in Dundee, the services to be included within the Health and Social Care Partnership were decided based on local pathways analysis, and it was decided that children's social work and community justice services would not be included. There remains a case for allowing local circumstances to determine where best these services should lie in each area, based on reports and research which suggest that positive outcomes are driven by collaborative leadership, effective strategic planning, good governance, performance management and workforce development rather than structural arrangements.</p> <p>Proposals to remove children and families social work from local government is likely to create greater complexity than it would resolve given the much more significant relationship between the universal education services and children with social work supervision or care support than there is with healthcare. Dundee has worked over a number of years to have an integrated children's service and this is improving outcomes locally.</p>

	<p>The Council welcomes the commitment to fully assess risks, opportunities, costs and benefits before a decision is made to transfer children's services in addition to adult social care, and emphasises the importance of full consultation and scrutiny of responses if the provisions for Ministers to do so remain in the Bill.</p>
<p>Do you have any general comments on financial implications of the Bill and the proposed creation of a National Care Service for the long-term funding of social care, social work and community healthcare?</p>	<p>There remains a lack of detail on how the national system will be financed, and considerable uncertainty about the impact this could have on local authority budgets. Greater clarity on funding arrangements for the new service is required, relative to current local authority expenditure. The impact on local government will depend on the details of the transfer of functions and how services are to be provided. COSLA have expressed concern that the potential mass transfer of functions, staff and properties could threaten councils' sustainability, with the potential loss of a critical mass having a significant effect on the ability to maintain other core local authority functions and threatening the viability of some councils as going concerns. Dundee City Council currently provides a number of services that support and enable the Dundee Health and Social Care Partnership to operate effectively, and the implications for Council employees who currently provide financial, democratic and legal, business support, health and safety, transport, IT and HR services to support social care remain unclear, since much of the detail of how the new service will operate has still to be determined. However, the fact that care boards will have their own separate legal status, will employ staff directly, and will not necessarily be set up to mirror the structure of local authorities does suggest that there are likely be knock-on effects for a much wider range of services than those which will directly transfer as part of the National Care Service.</p>
<p>The Bill is accompanied by a number of impact assessments - on equality impact, business and regulatory, child rights and wellbeing, data protection, Fairer Scotland Duty and island communities. Do you have any comments on the contents and conclusions of these impact assessments or about the potential impact of the Bill on specific groups or sectors?</p>	<p>No, except to re-emphasise that much of the detail required to implement the aims of the Bill remains to be decided, so further impact assessment will be required once issues around the scope of the National Care Service and its governance arrangements have been clarified. Depending on the geographies of the new care boards an assessment should be made to ensure that areas of multiple deprivation are fully considered as there is usually higher demand and more complex health and care need requirements in these areas.</p>

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Financial Memorandum Questions

Questions	Proposed Response
Did you take part in any consultation exercise preceding the Bill and, if so, did you comment on the financial assumptions made?	Yes, the Council did take part in the consultation exercise and made the point that there was no financial information contained in the consultation document about the cost of the National Care Service or how it would be funded, which made it difficult to gauge the scale of proposed investment or assess the adequacy of the investment to deliver the proposed outcomes. The response said that centralising services would not in itself provide a solution to the underlying funding issues and that without addressing the cost of reform and the scale of future funding, there was a risk of building expectations which are difficult to deliver in practice.
If applicable, do you believe your comments on the financial assumptions have been accurately reflected in the financial memorandum (FM)?	The Financial Memorandum acknowledges that the financial implications for local authorities are still unknown.
Did you have sufficient time to contribute to the consultation exercise?	Yes, but again subject to the proviso that the consultation document provided little information on the financial implications of what was being proposed.
If the Bill has any financial implications for you or your organisation, do you believe that they have been accurately reflected in the FM? If not, please provide details?	The establishment of the National Care Service is one of the biggest ever reforms to the Public Sector in Scotland and the statement in the Financial Memorandum acknowledges that the financial consequences for local authorities are not currently known.
Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?	There are still too many uncertainties to identify the costs and savings which could arise if the Bill is passed and implemented.
If applicable, are you content that your organisation can meet any financial costs that it might incur as a result of the Bill? If not, how do you think these costs should be met?	It is inevitable that there will be costs associated with managing such a significant transition and it is submitted that these should be provided for.
Does the FM accurately reflect the margins of uncertainty associated with the Bill's estimated costs and with the timescales over which they would be expected to arise?	It is considered that further work is required in relation to staffing, support services, property and pensions to establish the impact on Councils. It is submitted that it is unlikely there will be any savings to the Council unless responsibilities transfer to the new Boards without funding or TUPE. There is also a risk of decreasing economies of scale within Councils.

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Questions on specific provisions

There is also the option to give views on specific provisions in the Bill. There is no obligation to complete this section of the call for views and respondents can choose to restrict their comments to certain sections of the Bill. In providing comments on specific sections of the Bill, respondents are asked to consider the questions set out below:

Questions	Proposed Response
Whether you agree with provisions being proposed?	<p>There are many provisions which the Council fully supports, including the general principles, the Charter of Rights for service users, the commitment to Fair Work, the emphasis on ethical and sustainable procurement, and the assurance that the National Care Service and care boards will be required to participate in community planning and other joint planning arrangements with Council services. We particularly welcome the statement by the Scottish Government that the priority throughout the implementation of changes will be the continuity of support for individuals, and that the transfer of functions will be based on delivery readiness assessments following clear, transparent local transition plans developed with partners. This commitment is welcome as the Council has expressed concern that the focus on improving outcomes in the short and medium term must not be lost during a debate on structural change or during a challenging transition period.</p>
Whether there is anything important missing from these sections of the Bill?	<p>In terms of procurement, there are no specific references to the role of Scotland Excel or how it will work with the new national care service.</p> <p>Our consultation response also highlighted that there was no detail provided on the balance between local and national commissioning and what 'overseeing' local commissioning would mean in practice. An area where careful further consideration is required is the principle that procurement of services for people with "complex" needs will be addressed at a national level. Whilst we currently work well within national contracts and frameworks, this particular area of support needs to be locally flexible to ensure these most vulnerable residents can have the right services at the right time within our city. Being able to support individuals with complex needs at home - in relationship with their families and in contact with their social networks - is vital, and we would wish to be assured that the balance between local and national commissioning would not impact on the person-centredness of local services close to home.</p> <p>There may also be concern among the local government workforce that so many issues, including the extent of any transfer of staff from local authorities, have still to be dealt with by further secondary regulation or Ministerial direction.</p>

<p>Whether there is anything you would disagree with or there are amendments you would wish to propose to these sections of the Bill?</p>	<p>As outlined above, the Council still has concerns about the evidence base for the provisions in the Bill giving Ministers power to transfer children's social work and community justice services, and believes that, if these provisions are to remain in the Bill, a very robust consultation and scrutiny process must be undertaken before the local flexibility about how to provide such services is changed.</p>
<p>Whether an alternative approach would be preferable?</p>	<p>An alternative approach would be to remove from the Bill the powers for Ministers to transfer a wider range of statutory functions other than, adult social care to themselves or to care boards, and to leave these decisions to be made locally as at present.</p>