

ITEM No ...3.....

REPORT TO: CITY GOVERNANCE COMMITTEE – 2 SEPTEMBER 2024

REPORT ON: A NATIONAL CARE SERVICE FOR SCOTLAND – RESPONSE TO THE CALL FOR EVIDENCE

REPORT BY: CHIEF EXECUTIVE

REPORT NO: 235-2024

1. PURPOSE OF REPORT

1.1 This report updates members on amendments being proposed at Stage 2 of the National Care Service (Scotland) Bill process and sets out a proposed response to be submitted on behalf of Dundee City Council to the Health, Social Care and Sport Committee's call for evidence.

2. RECOMMENDATIONS

2.1 It is recommended that members:

- a note that the Scottish Government has written to the Health, Social Care and Sport (HSCS) Committee with a package of amendments for further debate at Stage 2 of the National Care Service (Scotland) Bill process; and
- b consider and agree the draft response (Appendix 2) to be submitted to the call for evidence launched by the HSCS Committee on the amendments, by the new deadline of 20 September 2024.

3. FINANCIAL IMPLICATIONS

3.1 There are no immediate financial consequences for the City Council arising from this report. As funding arrangements are made clearer this will be included in future reporting.

4. BACKGROUND

4.1 Reference is made to the report to the 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, and recommended a response by the City Council; and to the report to the Policy and Resources Committee on 22 August 2022 (Article VIII of the minute refers), which advised members about the publication of the National Care Service (Scotland) Bill, including information on the extent to which the Bill clarified areas highlighted by the Council in its response to the earlier consultation, and set out a draft response to a call for views which had been issued by the Scottish Parliament; and to the report to the City Governance Committee on 24 June 2024 (Article VI of the minute refers), which advised members of the Bill moving to Stage 2 of the process and highlighted amendments expected to be made.

4.2 The National Care Service (Scotland) Bill passed Stage 1 of the Scottish Parliament's legislative process, following a debate on the general principles of the Bill on 29 February 2024. <https://www.parliament.scot/bills-and-laws/bills/national-care-service-scotland-bill> The Bill is now in Stage 2 of the process, although the timescale for Stage 2 activities has still to be announced. Seven Parliamentary committees took evidence and reported on the Bill during Stage 1, and further detail and amendments will be now discussed by the lead Health, Social Care and Sport Committee during Stage 2 of the Bill's consideration, before the full Scottish Parliament will vote on whether or not to pass the Bill at stage 3.

4.3 In the Committee's Stage 1 report, a majority of Committee Members requested the Scottish Government provide the draft text of its Stage 2 amendments in advance of formal Stage 2 proceedings. This was to enable the Committee to take further evidence on the amendments prior to formal proceedings.

4.4 The Bill is divided into the following Parts:

- Part 1 creates the framework of the National Care Service. It amends the Public Bodies (Joint Working) (Scotland) Act 2014 so that there is only a single integration model for health boards and local authorities to choose. That single model entails the delegation of some of their functions to National Care Service local boards (currently known as integration joint boards). Part 1 of the Bill further establishes the National Care Service Board to oversee the work of the local boards, and to exercise wider powers in accordance with its general purpose of securing continuous improvement in the wellbeing of the people of Scotland.
- Part 2 gives the Scottish Ministers powers to make records about people's health and social care more consistent and better integrated.
- Part 3 contains modifications to existing laws relating to the provision and regulation of care.
- Part 4 contains provisions usually found at the end of a Bill, namely the power to make ancillary regulations, further elaboration in relation to regulation-making powers elsewhere in the Bill and the sections dealing with commencement and short title.

5. SUMMARY OF STAGE 2 AMENDMENTS FROM MINISTER'S LETTER

5.1 The Minister for Social Care, Mental Wellbeing and Sport wrote to the Convener of the Health, Social Care and Sport Committee (HSCS) concerning the draft Stage 2 amendments for the National Care Service (Scotland) Bill on 24 June 2024. This correspondence included a package of papers (300+ pages). The letter summarised key changes and the government's intentions for the National Care Service.

5.2 The Stage 2 package of documents provided included and available online are:

- Two marked up versions of the NCS Bill as Introduced, highlighting draft Scottish Government amendments for Stage 2 (a track changed version to show amendments, and a side-lined version to show what the Bill would look like if the amendments were agreed)
- List of draft Scottish Government Stage 2 amendments
- Updated version of Explanatory Notes
- Memorandum – policy intention of proposed Scottish Government amendments at Stage 2 (essentially an updated policy memorandum in a situation where there is no formal parliamentary procedure or precedent for providing one.)
- Marked up version of the Public Bodies (Joint Working) (Scotland) Act 2014, highlighting draft Scottish Government amendments for Stage 2 – an additional document provided to aid clarity on the effect of the amendments proposed for the 2014 Act.

[National Care Service \(Scotland\) Bill - draft Stage 2 amendments | Scottish Parliament Website](#)

5.3 Subject to parliamentary approval, the Minister intends to make the changes detailed in the above package to the NCS Bill through Stage 2 amendments to reflect:

- The Scottish Government's shared accountability agreement with local government leaders in June 2023 and the conclusion of further discussions with local government leaders and NHS health boards in November 2023 on the operationalisation of the shared accountability agreement.
- The Parliament's detailed consideration of the NCS Bill at Stage 1, and the specific points and recommendations made by the HSCS Committee in its Stage 1 report. These recommendations included the establishment of an Expert Legislative Advisory Group (ELAG), which the Scottish Government accepted. The comments of this group have informed the development of the draft Stage 2 amendments.

- The Scottish Government's ongoing stakeholder engagement and co-design work.
- The financial context, as set out in more detail in the Minister's letter to the Finance and Public Administration Committee of 11 December 2023.

5.4 The Scottish Government's vision for the National Care Service remains unchanged despite the proposed amendments to the Bill, but it appreciates that the route to achieving it has changed. The vision is 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

5.5 Through the proposed Stage 2 amendments, the main changes to the Bill will be as follows:

- The creation of a National Care Service Board. The National Care Service Board (NCSB) is intended to provide national oversight and improvement of social work services, social care support and community health services which fall within the scope of the National Care Service. It would prioritise the actions that will make the most difference to outcomes for people: clear and consistent national standards, performance against those and accountability for delivery.
- Greater consistency of local planning and delivery of reformed integration authorities rather than Care Boards. This will support implementation of NCS priorities by building on existing structures and good practice.

5.6 The realisation of the Stage 2 amendments detailed in the package is expected to substantially decrease the cost associated with the implementation of the NCS Bill.

5.7 There remains a small but significant number of areas where further work is needed to confirm which legislative approach would best deliver the intended changes and strengthen their future practical implementation. The intention of this approach is to free up COSLA and local government colleagues from further negotiation on these issues and allow them to focus specifically on the mission to reduce Delayed Discharges in the coming weeks and months.

5.8 The Scottish Government has however set out its current intention on these areas as follows:

- i) **Direct funding** – The government has been clear that their intention to introduce legislation which would give Scottish Ministers the power to directly fund reformed integration authorities for specific purposes, such as regional and national commissioning of specialist services. Within the current system, the budget for integration authorities is determined by the local authorities and health boards in accordance with the method for determining payments set out in the local integration scheme. This leads to variance across the country in terms of how services in the system are funded and, can lead to delays in getting funding to the frontline, as well as make it difficult to fully gauge the true nature of funding available for key priorities on a national scale.

Health and social care funding is a complex area, and the government want to make sure that any changes brought forward are fully understood and do not to create unintended consequences for the existing funding model. They will therefore continue to work closely with statutory partners and finance experts to ensure any amendments taken forward at Stage 2 do not lead to the intended outcomes. To inform this work, they have brought together representation from across local government, health boards and health and social care partnership to work through the detail of the proposals.

- ii) **Anne's Law** - the government remains committed to delivering Anne's Law within the NCS bill. Acknowledging the suggestions from Parliament that Anne's Law could be delivered in a different way, the government will work over the summer to determine whether any alternative route will deliver Anne's Law in keeping with the policy aim and more quickly.
- iii) **Inclusion of Justice Social Work** - the government preference is for the consistent inclusion of such services within the NCS at both a national and local level.
- iv) **Inclusion of Children's Social Work and other Children's Services** - under the proposed changes, any service that is included in an integration authority will be accountable to the National Care Service Board and, therefore, in scope of the NCS. Existing legislation allows flexibility as to which children's services are delegated into integration authorities. Some are operating with full delegated powers, whereas some include no children's services at all. Following the establishment of the NCS, areas where children's services have been delegated would be in scope of the NCS, while those areas that have not done so would not.

Under the current arrangements, making no additional provision in respect of children's services in the NCS Bill would result in children's services in many areas of the country being within scope of the NCS, and others being out. This means that different areas would be subject to different arrangements and requirements in a number of different respects including, for example, strategic planning, reporting, access to support and improvement framework, or the approach to commissioning and procurement.

The Minister believes that this would introduce further unnecessary complexity and duplication to a system which is already cluttered and confusing, risking creation of additional barriers. For this reason, her preference continues to be, as set out in the Stage 1 debate, inclusion of children's services, including children's community health services, in the scope of the NCS in all parts of Scotland.

Achieving the government's ambition requires progressive move towards consistent delegation of services across the country. The government thinks the most responsible way to do this is through an amendment to the NCS Bill to provide Scottish Ministers with a power to make regulation to ensure that certain children's services are delegated to integration authorities in all parts of the country.

However, the government thinks additional consideration of how and when this power might be exercised is needed. They want to make sure that this reform is delivered in a way which takes account of local needs and circumstances, is understood by children and their families, and benefits the workforce who support them. They also want any changes to children's services to build on existing good practice, preserve vital links across children's services, develop links between children and adult services, and further support, rather than distract from, work to drive improvement. Opportunities also remain to ensure that the final decision on children's community health services aligns with the inclusion of local authority children's services.

In addition, The Promise Scotland have now published their implementation plan for 2024-30 and government want to take additional time over the summer to consider how changes to children's services could be best aligned with The Promise timescales.

The Minister intends to provide further updates ahead of the deadline for formally lodging our final Stage 2 amendments. However, wanted to outline the intention as this may be

helpful for the Committee to indicate this to stakeholders when the Committee issues its call for views on the Stage 2 package.

- 5.9 Given the significant volume and complexity of the paperwork provided, a reader friendly overview summarising the key changes has been created by SPICe and is attached as Appendix 1. The Scottish Parliament Information Centre (SPICe) provides impartial, factual, accurate information and analysis to Members in support of Scottish Parliament parliamentary business.

6. CALL FOR EVIDENCE AND PROPOSED RESPONSE

- 6.1 The Health, Social Care and Sport Committee will now look in more detail at the amendments the Scottish Government is proposing to make to the Bill, at Stage 2. They are also seeking written evidence to hear views about the draft amendments. The Committee's call for views was scheduled to close on 30 August 2024, but was extended to 20 September 2024..
- 6.2 The questions set out in the call for evidence are detailed in Appendix 2, along with proposed responses on behalf of Dundee City Council for elected members' feedback and agreement.
- 6.3 The most contentious parts of the proposals remain the possibility that children's services and community justice services are mandated for inclusion within the scope of the National Care Service, in addition to adult social care services and whether or to what extent Scottish Government provides direct funding to reformed IJBs (Integration Joint Board).
- 6.4 The timings for the Bill, particularly a Stage 2 deadline are not yet set out. The government wish to allow time for engagement and scrutiny to take place. It was originally intended that the NCS be fully functioning by the end of the current Parliamentary term i.e. by 2026.
- 6.5 Approval of the Bill will clearly have implications for local government, as set out in this latest response. It is recommended that officers continue to work with COSLA and the Scottish Government to fully understand the implications and bring back further reports to update Committee.

7. POLICY IMPLICATIONS

- 7.1 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, so has not been subject to an Integrated Impact Assessment. An appropriate senior manager has reviewed and agreed with this assessment as the report concerns a response to a call for evidence and will not directly result in any changes to services immediately.

8. CONSULTATIONS

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

9. BACKGROUND PAPERS

- 9.1 None.

GREGORY COLGAN
CHIEF EXECUTIVE

DATE: 21 AUGUST 2024

ANDREA CALDER
HEAD OF CHIEF EXECUTIVE'S SERVICE

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SCOTTISH PARLIAMENT INFORMATION CENTRE (SPICE) OVERVIEW – NATIONAL CARE SERVICE

National Care Service Principles

Part 1 of the Bill and its Chapter 1 would see the most substantial changes in the Bill, with Chapters 2,3,4,5 and 6 being deleted. More detail has been added to the principles, and some new ones added, such as that services are experienced by people and carers as integrated (Sections 1, 1A, 1B).

The Scottish Government also recognises that there needs to be alignment between these and other associated principles and standards, such as the Integrated Planning and Delivery principles, Health and Social Care Standards and the National Health and Wellbeing Outcomes.

Clarification has been added about human rights: that they include ‘the rights contained in any international convention, treaty or international instrument ratified by the UK.’ The principles must be reviewed within five years of coming into force and the Scottish Ministers must consult a range of stakeholders, including those who use services and those who work in services provided via the National Care Service.

Policy intentions contained within the deleted sections are not all to be removed, but many would be moved and/or wording modified.

Responsibility for a National Care Service

The shared accountability agreement between the Scottish Government and COSLA means that instead of various local authority functions being transferred to Scottish Ministers and care boards, local authorities would retain legal responsibility for the delivery of their own services, as well as retaining associated staff and assets.

The Scottish Ministers would continue to have powers to direct national policy on social work services, social care, and community health. The Bill would mean that Scottish Ministers would set the national strategy for the NCS (Section 1C–1E).

Changes to Integration Arrangements

Part 1, Chapter 1, Section 12B (and Schedule 2a) would allow the renaming of integration joint boards to National Care Service local boards and would remove alternative integration models (such as lead body). Only the integration joint board model will be allowable (but renamed). This will have implications for Highland, which was the only authority to choose the lead body model, where there is no separate joint board.

Creation of a National Care Service Board

Section 12D would establish the National Care Service Board, a completely new body in the health and social care landscape. Section 12E sets out its purpose, which is:

“to oversee the National Care Service local boards and the provision of services by the National Care Service so as to secure continuous improvement in the wellbeing of the people of Scotland.”

This new body must produce a corporate plan about how it will fulfil its purpose, in accordance with a NCS strategy set out by the Scottish Ministers. There is some detail in the policy notes to accompany the marked-up Bill on proposed amendments on governance and NCS Board membership (Schedule 2c).

The policy notes state that:

“as a core minimum the membership of the National Care Service Board will include members appointed to represent the Scottish Ministers, local government and NHS Health Boards, as well as

people with lived experience of accessing or delivering integrated health and/or social care services, and people who are or have been unpaid carers.”

All members of the National Board would be appointed by Scottish Ministers, with health board and local authority members nominated by the bodies they represent. All members would have voting rights. However, the amendments propose that a power is created to further expand the provisions about the Board membership following further engagement with stakeholders.

The National Care Service Board would be able to employ staff and determine terms and conditions of employment, but the first Chief Executive would be appointed by Scottish Ministers.

The NCS Board could also establish committees and sub-committees from out with the Board membership.

Scottish Ministers could, by regulations, decide on further functions for the NCS Board, using the affirmative procedure. This procedure allows for a degree of scrutiny by the Scottish Parliament.

National Care Service Local Boards (NCS local boards)

In the Bill as introduced, there was a proposal to create local care boards. There was no reference to these in relation to existing integration arrangements or the Public Bodies (Joint Working) (Scotland) Act 2014 (The '2014 Act').

In the proposed amendments, Section 12B would modify the 2014 Act to rename integration joint boards as National Care Service local boards. Detail on membership of local boards does not appear in the proposed amendments, although it is the Scottish Government's intention to use regulation-making powers in the 2014 Act to review and potentially change:

- the role of localities – their remit and regulation
- chairing arrangements of the local boards
- voting rights to facilitate a fuller inclusion of local voices
- local board committee structure and governance.

Monitoring and Improvement

While there is section in the bill as introduced on improvement, the amended sections (12K and 12L) provide more detail and set out that the NCS Board will have responsibility for monitoring and improving services delivered through the NCS. Section 12L describes a 'support and improvement framework' that must be developed by the NCS Board, and which must align with work covered by other public bodies, and in particular, Healthcare Improvement Scotland, Public Health Scotland, and the Care Inspectorate (Social Care and Social Work Improvement Scotland).

In the Memorandum to support the amendments, the Scottish Government state (para. 138-139) that this responsibility:

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

- an agreed vision and common understanding of improvement
- coordinates evidence informed action around the key themes
- agreed improvement principles and an improvement model
- a consistent way of measuring improvement, acknowledging that the starting point will not be the same for everyone.

It is proposed that a collaborative approach will be taken to developing a national framework via a multi-agency steering group co-chaired with COSLA and SOLACE.”

National Social Work Agency (NSWA)

The Bill as introduced did not include provisions to establish a national social work agency, but it was referred to in the Bill as introduced Policy Memorandum.

It is intended that the NSWA will be a new public body, an executive agency. Disclosure Scotland and Social Security Scotland are examples of executive agencies. Executive agencies delivery aspects of government business and have a specialised function in the management of public services. Staff are civil servants with a Chief Executive who is directly accountable to Scottish Ministers. The role of Chief Social Work Adviser will also be put on a statutory footing.

The NSWA will work to meet the Scottish Ministers' duties to provide the NCS and oversee its services provided by social work and social care. The NSWA will be the first national body with oversight over social workers and their professional development and workforce planning.

According to the Regulation of Care (Scotland) Act 2001, these duties rest with Scottish Ministers. However, much of this work is currently covered by the remit of the Scottish Social Services Council (SSSC), the regulator for social services.

During Stage 1 scrutiny, questions were raised about the current roles and remits of the social care regulators – the SSSC and the Care Inspectorate, and how a national social work agency might impact on the roles and remits of these bodies. The documents do acknowledge this potential for duplication or modification to roles and remits but does not go into detail. The Memorandum states what the agreed foundations for the NSWA are but does not provide the nitty gritty of how the various Ministerial duties will be delegated. These foundations would be:

“Ensuring a social work workforce that is equipped and resourced to undertake its professional duties

- Improving local services while ensuring local flexibility, through agreement on national, regional, and local approaches to policy development and service provision
- Supporting local implementation of national policy consistently across Scotland whilst focussing on practical solutions for social workers
- Developing approaches, such as national standards for social work, to support a more consistent experience of social work that adapts to local and personal requirements and preferences
- Promoting support that is person-led and consistent, wherever people live in Scotland”

Workforce Planning

Both the social work and social care workforce are under severe pressure in terms of recruitment and retention of staff. This has a significant impact on the ability of local authorities to assess the needs of people in their area and to provide and arrange care and support for them.

As already indicated, according to the Regulation of Care (Scotland) Act 2001, it is the role of Scottish Ministers to determine the numbers of social workers and social service workers required, and what training is required, although, these and other functions could be delegated to the SSSC or others authorised to carry them out, such as the NSWA. Following a number of inquiries carried out by the Health and Sport Committee (2016–2021), which identified a more national approach to workforce planning as a priority, the Scottish Government published a set of three workforce plans to cover NHS staffing, social care staffing and primary care workforce.

Following the scrutiny of the Health and Care (Staffing) (Scotland) Bill in 2018, the then Health and Sport Committee noted that the outcomes of the Bill could not be achieved without attention given to wider national workforce planning. The Committee felt that this wider planning should consider the needs of policy and legislation rather than a process of replacing retiring staff – attending more to the demand side rather than the supply side which had previously been the focus. An integrated plan was published in December 2019, followed by a national workforce strategy in 2022.

Sections 157–162 of the Memorandum explain why workforce planning has been difficult for the Scottish Ministers. Responsibility would pass to the NCS Board, but only for social workers and social care staff, not NHS staff.

This means that the opportunity to consider integrated health and social care workforce planning to ensure services in both domains are integrated coherently will potentially be lost or made more challenging.

(Ethical) Commissioning and Procurement

The issue of how services are commissioned by integration authorities, along with procurement processes, arose in Stage 1 scrutiny, as well as in the post-legislative scrutiny of the Social Care (Self-directed Support) (Scotland) Act 2013.

Guidance and tools to support ethical commissioning will be developed separate from the Bill process. They will support NCS principles to implement fair work. However, there seems to be no further progress on sector-wide arrangements for the social care workforce, currently employed under a variety of terms and conditions, depending on the employer. The Scottish Government is aware of the support for collective arrangements and funding conditionality, as well as Fair Work Accreditation and a national forum to advise on workforce priorities, terms and conditions and collective bargaining.

On procurement, the Memorandum (paras. 167–174) state that it will still be local authorities who have responsibility for procuring social care services, while the NCS Board would be able to arrange specialist or complex services on a 'once for Scotland' national basis.

Public Contracts (Scotland) Regulations 2015 allow for a 'Light Touch Regime' for service contracts equal to or greater than the threshold of £663,540, allowing quality, continuity, accessibility, specific user needs and involvement to be considered. When contracts are below that threshold, no procurement procedural rules apply. However, contracts below that threshold, but which are worth at least £50,000, are regulated by the Procurement Reform (Scotland) Act 2014.

Section 41 of the Bill as introduced modifies the 2015 Regulations in order to 'reserve contracts for certain services' – this applies if the organisation qualifies according to a number of criteria, including that profits are reinvested to achieve the organisation's objectives to provide public service on behalf of the NCS. The Stage 1 Report highlights the reservations of a number of witnesses to the approach, and the Committee recommended, among other things, for the Scottish Government to:

"undertake a review of procurement practices and develop a strategy to remove competitive tendering from social care procurement, in favour of a collaborative approach to commissioning and procurement which is underpinned by ethical commissioning principles."

Amendments are proposed to Section 41, with modifications proposed to The Procurement Reform (Scotland) Act 2014. This appears to add a further dimension to procurement, tying in the NCS local board's strategic planning to decisions made about procurement strategies and 'regulated procurements'.

NATIONAL CARE SERVICE (SCOTLAND) BILL (STAGE 2) - Your views on draft amendments

Background

The Scottish Government introduced the National Care Service (Scotland) Bill in the Scottish Parliament on 20 June 2022.

The Parliament's Health, Social Care and Sport Committee published its Stage 1 report on the general principles of the Bill on 22 February 2024. On 29 February 2024, the Parliament voted to approve the general principles of the Bill at Stage 1.

During the course of its Stage 1 scrutiny of the Bill, the Health, Social Care and Sport Committee received notification of the Scottish Government's intention to propose amendments to the Bill at Stage 2. The amendments were to reflect a consensus agreement it had reached with COSLA on a model of shared legal accountability for governance of the proposed National Care Service.

In the Committee's Stage 1 report, a majority of Committee Members requested the Scottish Government provide the draft text of its Stage 2 amendments in advance of formal Stage 2 proceedings. This was to enable the Committee to take further evidence on the amendments prior to undertaking formal proceedings.

On 24 June 2024, the Committee received the following package of documents from the Scottish Government:

[National Care Service \(Scotland\) Bill - draft Stage 2 amendments | Scottish Parliament Website](#)
[Read an overview of the Scottish Government's documents from the Scottish Parliament Information Centre \(SPICe\)](#)

Purpose of the call for written evidence

The Committee is now issuing a call for written evidence to hear your views about the draft amendments the Scottish Government is proposing to make to the Bill as introduced at Stage 2.

In her covering letter, the Minister states:

“Through our proposed Stage 2 amendments, the main changes to the Bill will be as follows:

“The creation of a National Care Service Board. The National Care Service Board (NCSB) is intended to provide national oversight and improvement of social work services, social care support and community health services which fall within the scope of the National Care Service. It would prioritise the actions that will make the most difference to outcomes for people: clear and consistent national standards, performance against those and accountability for delivery.

“Greater consistency of local planning and delivery of reformed integration authorities rather than Care Boards. This will support implementation of NCS priorities by building on existing structures and good practice.”

The deadline for responding to this call for written evidence was originally Friday, 30 August 2024, but extended to 20 September 2024.

Please read before responding

If you are commenting on individual Scottish Government draft amendments in your response, please identify the amendment or amendments either:

By reference to the provisions [in the marked-up Bill](#) that they would either add or remove – e.g. “the new section 1A of the Bill” or “the removal of sections 2 and 3 of the Bill”; OR

By reference to where they arise [in the marked-up Bill](#), indicating the numbering of the provisions and the colour used (blue, red or both) – e.g. “the amendments shown in red and blue in section 1, subsection (1)(c)”; OR

By reference to the [numbered list of Scottish Government draft amendments](#) – e.g. “draft amendments PCO82, PCO95 and PCO83”.

Q1 What is your view of the proposed National Care Service strategy (see proposed new sections 1A to 1E)?

Strongly support / Tend to support / Partly support and partly oppose / Tend to oppose / Strongly oppose / **Undecided** / no opinion

Please use the text box below to expand on your answer

This remains an area where much more detail on what the Strategy would actually include before a meaningful opinions or views could be provided.

It is good to see that once created it would be regularly reviewed, evidence based, co-designed and evaluated. The 1st review is set out as being within 5 years.

2. What is your view of the proposal to create a National Care Service Board, and the provisions about the role and functions of the Board (see in particular new Chapter 1B of Part 1, and new schedule 2C)?

Strongly support / Tend to support / Partly support and partly oppose / Tend to oppose / Strongly oppose / **Undecided** / no opinion

Please use the text box below to expand on your answer

More details are still needed about the cost and benefits of the NCSB. There could be substantial investment needed so value for money must be a priority given the continued challenges for public sector funding. More understanding of any implications for the roles and responsibilities of local authorities is needed too.

3. What is your view of the proposal to establish National Care Service local boards and to remove other integration models (see in particular Chapter 1A of Part 1, and new schedules 2A and 2B)?

Strongly support / Tend to support / Partly support and partly oppose / Tend to oppose / Strongly oppose / **Undecided** / no opinion

Please use the text box below to expand on your answer

In the Dundee context if NCS local boards are replacing the current IJB model, this would be an improvement on the original proposals. Governance and structural arrangements must be as simple as possible and avoid duplication.

4. What is your view of the proposed new provisions on monitoring and improvement (see new sections 12K and 12L) and on commissioning (see new section 12M)?

Monitoring and improvement

Strongly support / **Tend to support** / Partly support and partly oppose / Tend to oppose / Strongly oppose / Undecided / no opinion

Please use the text box below to expand on your answer

Having robust monitoring and improvement processes is vital to any services to ensure regulations are adhered to, performance standards are being met and if not improvement processes are in place to address weaknesses including training needs. A key element will be the inclusion of stakeholders in these processes.

The ethos of the monitoring and improvement arrangements in the National Care Service (Scotland) Bill is to enhance existing frameworks rather than duplicate them, this must be at the centre of decision making when finalising these to ensure it does not divert resources from delivering services to administering additional scrutiny arrangements.

Commissioning

Strongly support / **Tend to support** / Partly support and partly oppose / Tend to oppose / Strongly oppose / Undecided / no opinion

Please use the text box below to expand on your answer

Ensuring the commissioning arrangements in place meet high standards for quality and accountability, as well being ethical and deliver on fair work principles are built into current processes used in local authorities.

From a local authority perspective there needs to be more discussion on what changes there could be to how resources are allocated, impacts on staffing, local accountability and more consideration of how local services would align with any national framework.

These need careful planning and consultation to ensure that the transition to the NCS supports both local authorities and the communities they serve.

5. What is your view of the proposed new provisions to designate a National Chief Social Work Adviser and for the creation of a National Social Work Agency (see new section 26A)?

Strongly support / Tend to support / Partly support and partly oppose / Tend to oppose / Strongly oppose / **Undecided** / no opinion

Please use the text box below to expand on your answer

If the aim is to create a more cohesive and effective system that leverages existing strengths while addressing gaps and inconsistencies. If this can be delivered by enhancing and integrating existing arrangements rather than duplicating them this would be welcomed.

The amendments do not explicitly refer to or reflect the fact that the Agency is being established as a partnership between Social Work Scotland (SWS), COSLA and the Scottish Government/Office of the Chief Social Work Adviser (OCSWA). However, the revised Policy Memorandum confirms that this is the case.

Amendments to the Public Bodies (Joint Working) (Scotland) Act 2014

The Minister's covering letter states:

"We intend to improve local delivery through reform of integration authorities. Integration authorities are existing bodies established under the Public Bodies (Joint Working) (Scotland) Act 2014. Local reform will require some new provisions in this Bill amending the 2014 Act, as well as the exercise of existing powers under that Act."

[Read a marked up version of the Act \(PDF\)](#)

6. What is your view of the proposed amendments to the Public Bodies (Joint Working) (Scotland) Act 2014, as set out in the marked up version of the Act?

Strongly support / Tend to support / Partly support and partly oppose / Tend to oppose / Strongly oppose / **Undecided** / no opinion

Please use the text box below to expand on your answer

Areas of further work

The Minister's covering letter states:

"There remain a small number of areas where further work is needed to confirm which legislative approach would best deliver the intended changes and strengthen their future practical implementation. Those areas are: Direct funding, Inclusion of children's services, Inclusion of Justice Social Work & Anne's Law

"The intention of this approach is to free up COSLA and local government colleagues from further negotiation on these issues and allow them to focus specifically on the mission to reduce Delayed Discharges in the coming weeks and months."

7. What is your view of the Scottish Government's proposed approach to addressing the areas of further work outlined in the Minister's covering letter?

Direct funding

Strongly support / Tend to support / Partly support and partly oppose / Tend to oppose / Strongly oppose / **Undecided** / no opinion

Inclusion of children's services

Strongly support / Tend to support / Partly support and partly oppose / Tend to oppose / **Strongly oppose** / Undecided / no opinion

Inclusion of Justice Social Work

Strongly support / Tend to support / Partly support and partly oppose / Tend to oppose / **Strongly oppose** / Undecided / no opinion

Anne's Law

Anne's Law is a piece of planned Scottish legislation which is intended to strengthen the rights of people living in adult and older people's care homes to see and spend time with the people who are important to them, even in the event of an outbreak of infectious disease.

Strongly support / Tend to support / Partly support and partly oppose / Tend to oppose / Strongly oppose / **Undecided** / no opinion

Please use the text box below to expand on your answer referring to the specific areas of further work that you are commenting on

The most contentious 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, in addition to adult social care services. This is contentious because many areas (including Dundee) have taken a decision not to include children's services and community justice services in the functions delegated to their local Health and Social Care Partnerships and have instead decided locally to keep these as Council services. Dundee City Council, among other local authorities, has taken the view that collaborative leadership and partnership is more likely to deliver improvement than structural change which would disrupt existing relationships between services. There is a concern that, to achieve their policy intention of greater consistency, Ministers may seek powers to mandate the delegation of children's and justice services if they feel that other arrangements will not ensure consistent applicability of National Care Service features and principles. This issue continues to be discussed at the COSLA Leaders Meetings, most recently on 31 May 2024, where Leaders expressed disappointment at the decision of the Scottish Government to continue to seek the power in legislation to enable Scottish Ministers to mandate the local delegation of children's services and justice social work services and include all children's and justice services under the auspices of the NCS National Board. It remains unclear the effect this will have on Scotland's ability to keep the Promise or improve outcomes for children more generally in the context of limited resources.

Anne's Law - is seen as being a key development in ensuring access to care home residents by families and/or people important to them and recognising the importance of meaningful contact in supporting health and wellbeing. There are recognised challenges in balancing this, including residents' human rights with necessary restrictions applied during an outbreak (such as Covid or other illness which may impact residents) to keep everyone safe. Furthermore, facilitating visits with appropriate staffing levels and any potential financial implications need to be considered further. The covering letter from the Minister notes exploring legislative routes for this and other issues with a view to free up officers to focus on the challenges of delayed discharges - as an approach this seems reasonable however there needs to be guarantees that this would not result in pushing through legislation unchecked by those charged with implementing.

Draft National Care Service Charter

As part of the package shared with the Committee, the Scottish Government has provided an [update on co-design of the NCS Charter](#) and an [initial draft of the National Care Service Charter](#).

8. What is your view of the initial draft of the National Care Service Charter?

Strongly support / **Tend to support** / Partly support and partly oppose / Tend to oppose / Strongly oppose / Undecided / no opinion

Please use the text box below to expand on your answer

If the funding, structures and governance are in place to ensure the services of the new NCS are deliverable to the standards/targets set, a clear and easy to understand Charter will help/support service users with understanding their rights and what can be done when they aren't met or go wrong.

9. Do you have any other comments on the Scottish Government's proposed draft Stage 2 amendments to the National Care Service Bill?

Please use the text box below to expand on your answer

It has been very challenging to review and properly consider the papers released in late June to meet the deadline for this Call for Evidence. There is a significant volume of information included in the package released.

Consideration of timescales and deadlines are needed given the volume of papers and complexity of this Bill and not having the bulk of the time available during peak summer holidays and when Councils are in recess would be beneficial in the future.