

REPORT TO COMMUNITIES COMMITTEE – 8 SEPTEMBER 2022

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

1 Executive Summary/Recommendations

The Committee is recommended to note the corporate response to the Scottish Parliament Call for Views on the National Care Service (Scotland) Bill. The Call for Views closed on 2 September 2022. The response was submitted by the Head of Customer & Digital Services under delegation following consultation with the Chair, Vice Chair and Opposition Spokesperson.

1.2 The Committee is recommended to:

1.2.1 Note the corporate response to the Scottish Parliament Call for Views attached as Appendix 1 to this report that was submitted under delegation by the Head of Customer & Digital Services.

2 Decision Making Route

- 2.1 The Scottish Government introduced the National Care Service (Scotland) Bill (the Bill) to Parliament on 20 June 2022. The Bill requires Crown consent. It is expected that consent will be signified at Stage 3.
- 2.2 The Scottish Parliament on behalf of the Scottish Government sought views on the Bill. A [Call for Views](#) opened on 8 July 2022 and closed on 2 September 2022.
- 2.3 The corporate response coordinated by the Business Strategy Team is attached as Appendix 1 to this Report. The response has been developed with reference to the Council's response to the Scottish Government consultation which was considered by a Special Meeting of Full Council on [6 October 2021](#).
- 2.4 In accordance with the Scheme of Governance Part 2A A.22 the response to the Call for Views has been submitted by the Head of Customer & Digital Services under delegation following consultation with the Chair, Vice Chair and Opposition Spokesperson.

3 Discussion

- 3.1 The purpose of the Bill is to improve the quality and consistency of social services in Scotland. Part 1 gives the Scottish Ministers a duty to promote a comprehensive and integrated care service and gives them the powers they need 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.
- 3.2 The Bill gives Scottish Ministers powers to transfer relevant functions from local authorities or from health boards (relevant local authority functions are those covering 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). This could include adult and children’s services, as well as areas such as justice social work. Scottish Ministers will also be able to transfer healthcare functions from the NHS to the National Care Service.

- 3.3 Care or health services could be delivered nationally or locally. The Bill establishes new bodies called “care boards” which will be responsible for delivering care locally.
- 3.4 The Bill makes other changes including:
- allowing information to be shared by the National Care Service and the NHS
 - introducing a right to breaks for carers
 - giving rights to people living in adult care homes to see the people important to them (known as “Anne’s Law”)
- 3.5 MSPs from the Health, Social Care and Sport Committee and other committees are reviewing the current proposals and are keen to receive views to establish if the proposed law needs to be improved and whether the draft Bill should be passed into law by the whole Parliament.
- 3.6 The Council’s view has not changed since the last consultation submission in September 2021. Key themes remain around the requirement for clarity and detail on the financial and resource impacts on Local Authorities. Other concerns that have not been addressed include:
- Resource and financial implications of creating care boards
 - Greater level of detail required on implementation of service delivery through care boards
 - Impact on local delivery
 - Confirmation on the services that will transfer to the National Care Service and the impact of this locally
 - Impact on development of information sharing going forward
 - Further clarity and impact on the transfer of potential capital assets
- 3.7 The Call for Views asks respondents to provide alternative approaches. The Council recommends the creation of National Care Service (NCS) to act as an advisory body at national level with statutory responsibility for social care provision remaining with local authorities. This option would see the Scottish Government establish a NCS focused on coordinating and leading improvement at national level, working with Integration Joint Boards, local authorities and health boards. This option would permit some improvements to be made along the lines of existing action being taken.

4 Council Priorities, Implications and Risk

4.1 This report helps deliver all six of the council’s Strategic Priorities

Pillar	Priority
Our People	Education Health & Wellbeing
Our Environment	Infrastructure Resilient Communities
Our Economy	Economy & Enterprise

Pillar	Priority
	Estate Modernisation

4.2 The screening section as part of Stage One of the Integrated Impact Assessment process has not identified the requirement for any further detailed assessments to be undertaken. Detailed assessment is not required because this is a response to a consultation and does not have a differential impact on any of the protected characteristics or on those facing socio-economic disadvantage.

4.3 The table below shows whether risks and implications apply if the recommendations are agreed.

Subject	Yes	No	N/A
Financial		x	
Staffing		x	
Equalities and Fairer Duty Scotland			x
Children and Young People's Rights and Wellbeing			x
Climate Change and Sustainability			x
Health and Wellbeing			x
Town Centre First			x

4.4 The following Risks have been identified as relevant to this matter on a Corporate Level:

The following Risks have been identified as relevant to this matter on a Corporate Level - [Corporate Risk Register](#):

- ACORP002 – Changes in government policy, legislation, and regulation.

4.5 The following Risks have been identified as relevant to this matter on a Strategic Level - [Directorate Risks](#):

- BSSR002 - Communities are confident, resilient, and inclusive. Individuals feel secure and in control of their circumstances.

5 Scheme of Governance

5.1 The Head of Finance and Monitoring Officer within Business Services have been consulted in the preparation of this report and had no comments to make and are satisfied that the report complies with the Scheme of Governance and relevant legislation.

5.2 The Committee is able to consider on this item in terms of Part 2A of the Scheme of Governance D.4.2.

Ritchie Johnson, Director of Business Services

Report prepared by Jane Wilkinson, Policy & Performance Team Leader

Date: 8 August 2022

List of Appendices:

Appendix 1: Aberdeenshire Council response to the Call for Views on the National Care Service (Scotland) Bill

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

General questions about the Bill

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 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?

Improvement is currently the responsibility of integrated Joint Boards (IJBs) and, in Aberdeenshire, integration is working well. There is a risk that the good work and practice already in place in some IJBs is lost under this proposal. IJBs are still in their infancy and need time to achieve their full potential – structural change at this stage will distract from the very critical services being delivered and has the potential to delay from the very improvements which require to be made.

Measuring improvement particularly in terms of outcomes for people is complex not least when attempting to benchmark performance or ‘scale up’ improvement across complex organisations where significant local variation can exist.

It would be considered important to ensure the knowledge and expertise provided by existing regulatory bodies responsible for inspection and monitoring of standards across health and care services is not diluted.

There is a potential risk in the removal of local decision making in that the ability for local government to influence, and input to, improvements to community health and care services in their area on behalf of constituents and with the local knowledge that comes with that will be significantly reduced, along with the accountability at a local level. There must still be a central role for local decision making in any national care model and within new “care boards.” This should include a place for a national framework in which IJB’s and or local care boards can operate.

It must be recognised that many IJB’s have worked tirelessly since they came into being to put local people and their needs at the heart of everything that they do. The Aberdeenshire IJB works well, and the Health and Social Care Partnership brings together staff from the Council and NHS to focus on outcomes for the local public.

Clarity is required on how the National Care Service (NCS) will be delivered in real time, what difference the NCS will make and what the impact will be on Health Care officers as well as clients.

Are there any specific aspects of the Bill which you disagree with or that you would like to see amended?

Aberdeenshire Council finds it extremely difficult to comment on a Bill without greater consideration of cost, impact on the workforce and, in some areas, even a clear idea of what improvement is required or the rationale for inclusion of certain services. This information should be provided as a matter of urgency to allow a fuller response to be provided.

There is a risk in the removal of local decision-making in that the ability for locally democratically elected representatives to influence, and input to, improvements to community health and care services in their area on behalf of constituents and with the local knowledge that comes with that will be significantly reduced, along with the accountability at a local level.

Local decision making and placemaking must be central in any national care model. Many IJBs have successfully achieved putting local people and their needs at the heart of everything that they do. The Aberdeenshire IJB works well, and the Health and Social Care Partnership brings together staff from the Council and NHS to focus on outcomes for the local public as noted in the Aberdeenshire Integration Joint Board Annual Audit Report 2019/20 published by Audit Scotland. The Annual Audit Report states that the IJB has a clear vision that is shared by partners and reflects the views of local people who engaged with the plan's development.

There is no mention of the role for Health and Social Care Partnerships, what are the plans for their futures? They are the current delivery arm of the IJB, is this envisaged as being part of or replaced with care boards? Would legislation put HSCPs on a footing where they can directly employ staff? The uncertainty around this is damaging to our workforce.

Is there anything additional you would like to see included in the Bill and is anything missing?

Local decision making is critical so that decisions are made closest to the people receiving the services. Additionally, consideration should be given to the role for local democracy – and the value this can bring: local accountability, intervening when things go wrong, and a very strong understanding of the needs of local communities. In Aberdeenshire, our local Councillors are part of their communities and are key to engagement with communities and individuals on health and social care services. There would be more value in the spheres of government working together to broaden the diversity of those stepping up to be the democratic voice of their communities, so that there is a greater variety of lived experience at the decision-making table. A local forum that is not democratic would not be able to represent or advocate effectively for communities, which is the main gap in terms of localism.

With the introduction of the National Care Service there needs to be clarity on the impact on all public protection services. Any changes in legislation for Adult Services will also impact on child protection and services. The transfer of public protection services to the NCS cannot be fully understood, until details of the changes to legislation and its functions is able to be analysed by public protection teams.



Future secondary legislation

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?

The Council seeks clarity on the purpose and aims of the inclusion of Children's Services within the scope of the NCS and what specifically needs to improve.

Any move away from this could seriously impact on existing and strong working relationships with a risk to the way services are delivered. Government needs to set out the rationale for this last-minute addition to the scope and how the NCS would benefit children and young people. The Council is progressing well in terms of its commitments to deliver The Promise. Imposing a restructure will impact progress significantly and place already stretched resources under considerable strain.

There should be recognition of the strong relationships and collaboration across all areas of public protection especially in local areas and how this will be impacted if public protection changes as the National Care Service progresses. It should be recognised that there are clear statutory requirements for local authorities with the current legislation for example Management of Offenders within Criminal Justice, how will this change and what the impact will be, including the financial implications on Local Authorities if not all social care services move to the National Care Service.

General points that we wish to be considered going forward; include:

- The opportunity for local authorities to see a business case outlining the analysis of the need for change including the legal and financial implications and the ways in which a restructuring will address the problems.
- There needs to be detailed consideration at this stage by SG of information sharing – will this comply with GDPR? Lessons need to be learned from the Named Person model
- UNCRC implications need to be outlined
- Transfer of property and liabilities – what happens to dual purpose facilities? Does the borrowing against these properties also transfer – what is the proposal?
- Employees – any impact needs to be clear and the opportunity to be considered, including what happens to staff who cover both transferred and non-transferred functions, and would the operation of TUPE be suspended re NHS employees?
- VAT – any impact needs to be clear and the opportunity to be considered, given what happened in the Police Scotland reorganisation?

Transfer of services to the National Care Service

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?

The ambition to reduce any disparity or variation of core outcomes is welcome, so that everyone can receive an agreed level of service regardless of where they live, but the Place Principle should also remain.

The Feeley report recommended a NCS that was of equal value to the NHS and a national structure created that allowed for equal value and accountability of social work/social care. There is a potential that the widening of the NCS beyond Social Work/Social Care could undermine that aim, as described in the concerns from Children's Services.

With the introduction of the National Care Service there needs to be clarity on the impact on all public protection services. There should be recognition of the strong relationships and collaboration across all areas of public protection especially in local areas and how this will be impacted if changes are progressed.

NCS should not be responsible for Children's Services, Community Justice Partnership, Alcohol and Drugs Partnership etc. This proposal extends the recommendations in the Feeley report significantly and should be defined only to the parameters of what was originally intended.

We need to understand what the impact will be on legislation changes and how will this affect public protection services, for example emergency response and the level of communication and information sharing required. How will this change and improve, given ongoing anecdotal evidence from other health professionals of not sharing information – especially in early detection.

This raises the question on whether there is a clear understanding of what social work delivery is and will be within a National Care Service and the range that these areas covers - social care, preventative work, applying legislation and protection for both adults and children. There needs to be an understanding of future roles and responsibilities across all parties due to changes in legislation and the implementation of an NCS.

Currently there are clear statutory requirements for local authorities with the legislation for example, management of offenders within Criminal Justice. Clarity is needed on how this will change and what the impact will be, including the financial implications on local authorities, if all or some public protection services move to the National Care Service.

In relation to the inclusion of children's services within the NCS, whilst the ambition of cradle to grave ethos is recognised there are concerns around the approach and how this would work in practice. One of the critical concerns is the delivery of a model that reflects local need.

Aberdeenshire's Children's Services Social Work has a good reputation nationally and is recognised for their commitment to improvement activity that is strongly linked to lived

experience and improving outcomes. There is a risk that this could be lost in a centralised service. By their very nature, actions to address breaking down barriers will create new barriers.

It is important that the focus for the National Care Service remains on the outcomes a person has first and not just on equality or comparability of service provision. We need to have a better understanding on how the National Care Service will be delivered in real time, what will be different and what impact this will mean for health & care officers as well as clients.

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?

Any reorganisation or restructuring is expensive and it must be made clear what these proposals will cost and where they will be funded from. The opportunity to review a proposed business case, to be able to analyse the need for change including the legal and financial implications and the ways in which a restructuring will address the problems.

Recognising the need to get agreement to structural change, there needs to be more evidence on how much the changes will cost, How can we agree to this? How do we know we can afford to do this going forward and the implications this will have on both local authorities and the NCS, and hence get agreement.

There seems to be no commitment to the funding allocated to social work/social care services. Costings that have been proposed seem to be around funding the transformation rather than the actual service delivery which if we are expected to deliver these services in an improved way, will need to be fully funded.

It should be noted that Scottish Government should fully consider the TUPE implications for both Council and NHS staff before further progressing a National Care Service, as it appears TUPE is as applicable to the NHS as it is to local authorities.

The Bill is accompanied by the following impact assessments:

- [Equality impact assessment](#)
- [Business and regulatory impact assessment](#)
- [Child rights and wellbeing impact assessment](#)
- [Data protection impact assessment](#)
- [Fairer Scotland duty assessment](#)
- [Island communities impact assessment](#)

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?

It is good that the NCS Bill recognises that a preferred model of delivery will be co-designed with stakeholders, backed by relevant assessment of evidence, and be subject to consultation, parliamentary scrutiny and approval before any transfer takes place.

The Council acknowledges that there are problems inherent in the current system and that change is necessary to improve the consistency, quality, and equity of care in Scotland. We suggest that the NCS acts as an advisory body at national level with statutory responsibility for social care provision remaining with local authorities.

This option would see the Scottish Government establish an NCS focused on coordinating and leading improvement at national level, working with IJBs, local authorities and health boards.

However, it is the view of this Council that the value of local democratic accountability enshrined in the current model should be retained. The loss of this element of local involvement, particularly when done in tandem with nationalising standards of care and approaches to commissioning and procurement, dilutes local planning and service delivery thereby increasing the risk of compounding the perception of a system that causes unnecessary hardship and suffering.

The proposals as they currently stand do not articulate what the changes will mean to local people. If the proposals will not deliver clear improvements and direct benefits for our residents and communities, then it is imperative that we consider different approaches that will. We have an opportunity to refine current approaches to make right some inequity and frustration that exists. We have a duty to ensure that the solution is timely, cost-effective and that it meets the needs of our communities.

Clarity is also required on the proposed future changes to all legislation and the impact for this, including the benefits that these changes could make.

Questions about the Financial Memorandum

Did you take part in any consultation exercise preceding the Bill and, if so, did you comment on the financial assumptions made?

A response was submitted to the 2021 NCS consultation. All questions were answered within the consultation. However, none of the questions in the consultation set out any specific financial assumptions as the focus of the questions was on the remit, service delivery, standards, and scrutiny of the National Care Service.

If applicable, do you believe your comments on the financial assumptions have been accurately reflected in the financial memorandum (FM)?

For the reasons set out above there were no comments made in relation to the financial implications of the National Care Service. The Financial Memorandum is welcome in that it



sets out the high-level financial assumptions of the Scottish Government in relation to provisions within the National Care Service Bill.

Given the need to fully understand the financial implications at a national and local level it would be helpful going forward for there to be an iterative data gathering exercise to capture the financial implications.

Did you have sufficient time to contribute to the consultation exercise?

No

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 financial implications for Aberdeenshire Council will depend on how Ministers design the National Care Service and the extent to which they exercise the powers available to them within the Bill.

If, for example, there is a “transfer of relevant functions from local authorities” to the National Care Service then this will potentially involve the transfer of staff and buildings and it is not clear from the tables within the FM that those costs have been taken into account. In terms of buildings for example, these form part of the assets of the Council and may still have associated borrowing costs for which the Council would need to be compensated.

The FM needs to reflect the financial implications arising from potential changes to the strategic use of assets linked to service needs, the ownership and the management of property assets, investment and disinvestment decisions, programme, and project delivery with the associated related financial implications.

There would be significant risk to disconnecting services in terms of culture and ambitions as well as the impact on budgets. Some resources that are also commissioned are joint funded with education, for example residential schools. Consideration needs to be given to where such a budget would sit and if children’s services social work is disconnected from education, there is a greater risk and potentially pressure to place children rather than support them in their own communities.

Given that it has been identified within the FM that local care boards could plan and commission local services within local authorities through a procurement process, there will be huge financial implications to this and these need to be identified on what authorities may lose if care boards take an independent route to procuring services and how the TUPE of staff will be met. This is not just about direct services or staff, but the additional support that these care boards will need and the costs aligned to delivery by local authorities and these need to be clearer.

Within the FM it identifies that Table 2 sets out:

The approximate current and projected costs of the services that could be transferred to care boards and to the Scottish Ministers. In terms of the total costs to the public purse, it is

assumed the transfer of services itself has no effect: the costs of providing these services will simply transfer from local authorities and health boards

If a model of direct service delivery is adopted by the NCS the transfer of services will include the transfer of capital assets and the financial impact of that on local authorities needs to be taken into account. There will also need to be consideration given to the costs of the disaggregation of Council services, for example the back office functions or where service delivery models are interlinked such as between Education and Children's Social Work Services.

The FM makes no mention of how the costs of providing these services will transfer and what the implications are in terms of the revenue support grant. The reduction of budgets and impact of transfer needs to be clearer and defined before any agreement is made.

Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?

This depends on whether the Board is to be strategic with a commissioning role. There could be benefits of Boards directly employing staff, and opportunity for equality by virtue of staff having the same terms and conditions. Presently staff have different terms and conditions, including pay, for carrying out the same role but by having a different employer (NHS Grampian or Aberdeenshire Council). There could be advantages to the Board employing all strategic and delivery staff by strengthening the HSCP as its own organisation. However, the disadvantages would include the requirement for HR and organisational support, less flexibility for staff to take up post quickly from NHS or Council and a potential disconnect of staff from professional lines. Changes to employers would cause unnecessary disruption and is a distraction from seeking the improved outcomes which we all want.

We do not need restructuring to develop a workable public pay policy. We should have a public pay policy that works – currently councils are not funded to allow them to give the same terms and conditions, including pay, as other parts of the public sector like the NHS.

The cost of change is also an area of concern and when that cost is articulated, consideration should be given to what improvements could be made within the existing arrangements without the need for uncertainty and challenge across the workforce.

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?

No. The implementation of the National Care Service represents a major shake-up of the care sector and as such will require additional resources to ensure the implications of the changes are clearly understood and to plan for and implement the resultant organisational changes, given that there will potentially have to be a disaggregation of the workforce and services.

Given that it has been identified within the FM that local care boards could plan and commission local services within local authorities through a procurement process, there will

be huge financial implications to this and these need to be identified on what authorities may lose if Care Boards take an independent route to procuring services and how the TUPE of staff will be met. This is not just about direct services or staff, but the additional support that these Care Boards will need and the costs aligned to delivery by local authorities and these need to be clearer.

As above there needs to be consideration given by Scottish Government on the TUPE implications for both Council and NHS staff before further progressing a National Care Service, as it appears the TUPE process and costs is as applicable to the NHS as it is to local authorities.

Within the FM it identifies that Table 2 sets out:

the approximate current and projected costs of the services that could be transferred to care boards and to the Scottish Ministers. In terms of the total costs to the public purse, it is assumed the transfer of services itself has no effect: the costs of providing these services will simply transfer from local authorities and health boards

Most of these support costs are already established with local authorities and are part of Council delivery or assets, so will still need to be provided should Care services be transferred. Any costs relating to this will have an impact on Council budgets going forward. The reduction of budgets and impact of transfer needs to be clearer and defined before any agreement is made.

Depending on whether the NCS adopts a model of direct service delivery or a commissioning model there will be the need to consider the financial impact on the revenue support grant and staffing costs should the chosen delivery model result in changes to staffing structures that generate additional costs to the local authority for example from voluntary severance.

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?

No. There needs to be a balance and careful consideration to the impact it may have on the provision of other services.

There also needs to be consideration given to the opportunity cost arising from the current level of uncertainty. Future investment decisions in new or upgraded facilities may be paused due to the lack of clarity on the final remit of the National Care Service and the implications for the Council's asset base.

There seems to be no commitment to the funding of social work/social care services fully. Identified costings seem to be around funding the transformation rather than the actual service delivery which, if we are to deliver these services in an improved way, will need to be fully funded.

Questions on specific provisions

In providing comments on specific sections of the Bill, please consider:

- *Whether you agree with provisions being proposed?*
- *Whether there is anything important missing from these sections of the Bill?*
- *Whether there is anything you would disagree with or there are amendments you would wish to propose to these sections of the Bill?*
- *Whether an alternative approach would be preferable?*

National Care Service principles (Section 1)

In providing comments on this section of the Bill, please consider:

- *Whether you agree with these principles as drafted?*
- *Whether there is anything in the principles you would disagree with or wish to amend?*
- *Whether there is anything important missing from these principles?*
- *Whether an alternative approach would be preferable?*

The Council notes the inclusion of the founding principles in the consultation such as how social care is understood and valued by individuals and our society, how it is funded and paid for into the future, the need for a person-centred approach to care and support in Scotland, and how Fair Work is achieved for all the social care workforce. We appreciate the need to recognise and respect the role of the care workforce, so it is seen at the same level as the NHS. We do not dispute that change is necessary to improve the consistency, quality, and equity of care in Scotland and suggest that the NCS acts as an advisory body at national level with statutory responsibility for social care provision remaining with local authorities.

This option would see the Scottish Government establish an NCS focused on coordinating and leading improvement at national level, working with IJBs, local authorities and health boards.

Accountability to Scottish Ministers (Sections 2 and 3)

Sections 2 and 3 establish Scottish Ministers' overarching responsibilities for the National Care Service, namely to "promote in Scotland a care service designed to secure improvement in the wellbeing of the people of Scotland" and to monitor and improve the quality of services provided by the National Care Service. These provisions have the effect that the National Care Service will be directly accountable to Scottish Ministers.

- *Whether you agree with Scottish Ministers being given these overarching responsibilities?*

Firstly, it is important to note that the NCS has come from the Feeley Report which reviewed Adult Social Care and concluded on a number of concerns that have supported

the development of a NCS to mitigate against risks and bring improvement to service delivery. Children's Services were not included in the Feeley Report and so unlike Adult Social Care, an analysis is not available to support what isn't working well and how bringing services together in this form would actually benefit our communities in receipt of Children's Services. The voices of our communities using these services is also missing.

Children's services alongside partner agencies are currently heavily involved in trying to bring about transformational change following the publication of The Promise. This transformation straddles a ten-year plan and in Aberdeenshire we are already making significant strides to bring about transformational change alongside statutory partners both within the local authority across services and with other services. Significant consideration needs to be given to the impact the creation of a NCS that includes Children's Services will have on our ability to meet the expectations of the Promise and to bring about transformational change.

Whilst the ambition of cradle to grave ethos is recognised, there are concerns about how the inclusion of both adult and children's services would work in practice. One of the critical concerns is the delivery of a model that reflects local need. Aberdeenshire's Children's Services Social Work has a good reputation nationally and is recognised for their commitment to improvement activity that is strongly linked to lived experience and improving outcomes. There is a risk that this could be lost in a centralised service.

Careful consideration must also be given to the potential disconnect from early years and education services and the impact this would have on children's services planning arrangements the responsibility of which currently sits with local authorities and health boards. There could be a real risk to the Scottish Government's 'Getting it Right for Every Child' policy which strongly promotes collaborative working to improve wellbeing as a continuum from universal services right through to targeted services.

There are also significant risks that children's services social work would be subsumed within health services who work within a very different model. Children's Services Social Work is a very particular field of social work and whilst families may experience multiple challenges and require multiple services, the approach is often different and does rely on eligibility criteria or capacity to accept support. A centralised approach brings the risk of the values and identity of the profession becoming lost.

Thought also needs to be given to where council owned/registered regulated services sit including Fostering, Adoption, and our Children's Homes. It isn't clear whether these services would also move to the NCS or be commissioned from the local authority. There would be significant risk to disconnecting these services in terms of culture and ambitions as well as the impact on budgets. Some resources that are also commissioned are joint funded with education for example residential schools. Consideration needs to be given to where such a budget would sit and if children's services social work is disconnected from education, there is a greater risk and potentially pressure to place children rather than support them in their own communities.

The ambition for all services should be that people receive seamless and person-centred care. The Feeley report recommended a NCS that was of equal value to the NHS and a national structure created that allowed for equal value and accountability of social work/social care. There is a potential that the widening of a NCS beyond Social Work/Social Care could undermine that aim, as described in the concerns from Children's Services.

It is unclear how the inclusion of Children's Services links in with the work on the Promise and the 9-year commitment to improve Children's Services.

The Council would suggest that the key issue is resourcing existing local services properly. Local services should be tasked to make improvements in line with standards set by NCS but at a local level, taking account of local needs. The requirements of communities across rural Aberdeenshire will be very different to those in cities such as Glasgow and Edinburgh. There is a concern that a one size fits all approach would lead to inequity and exacerbate current issues around lack of availability of local resources and support. Local decision making ensures that funding is directed to the right places.

NCS should not be responsible for Children's Services, Community Justice Partnership, Alcohol and Drugs Partnership etc. This proposal extends the recommendations in Feeley significantly and should be defined only to the parameters of what was originally intended.

The Feeley report recommended a NCS that was of equal value to the NHS and a national structure created that allowed for equal value and accountability of social work/social care. There is a potential that the widening of the NCS beyond Social Work/Social Care could undermine that aim, as described in the concerns from Children's Services.

There is a need to ensure that professional links are maintained across all aspects of services.

The Council supports the principle that improvement should be a key focus of the delivery of care services across Scotland and would highlight that the focus of improvement has to be person-centred care. Additionally, improvements must recognise and respect the role of the care workforce so it is seen on the same level as the NHS. The Council would like to see further consideration given to the possibility of Scottish Government intervention being targeted and focussed on the areas or services where it is needed, such as in workforce planning and setting minimum standards. The Council would request details of how the NCS would help to fix the significant problems around recruitment and retention of staff.

Any reorganisation or restructuring is expensive and it must be made clear what these proposals will cost and where they will be funded from. Consideration must be given to how funding can be spent better on existing arrangements, with a focus on those areas where improvements are most needed.

Of the three alternative approaches to be considered, Aberdeenshire Council would be in favour of the following:

Do not transfer responsibility for social care to the Scottish Ministers but create an NCS to act as an advisory body at national level with statutory responsibility for social care provision remaining with local authorities.

This option would see the Scottish Government establish an NCS focused on coordinating and leading improvement at national level, working with IJBs, local authorities and health boards. Similar to the above two options of not establishing an NCS, this option would permit some improvements to be made along the lines of existing action being taken. Although we recognise that this option would not address the issues about the lack of overall accountability for the quality and consistency of care.

Establishment and abolition of care boards (Sections 4 and 5/Schedules 1 and 2)



Sections 4 and 5 make provision for the establishment and abolition of care boards and for financial assistance for boards. As set out in the Policy Memorandum, the Bill “makes provision for the Scottish Ministers to establish and fund these boards, called “care boards” in the Bill, to plan and deliver NCS service locally, replacing current Integration Authorities.” The Policy Memorandum continues: “There is also provision for “special care boards” to deliver national functions if needed.”

Connected to Section 4 and annexed to the Bill, Schedule 1 sets out detailed provisions related to the constitution and operation of care boards while Schedule 2 makes consequential amendments to public authorities legislation.

- ***Whether you support the establishment of care boards as set out in these sections of the Bill and provisions on financial assistance for boards?***
- ***Whether there is anything important missing from these sections of the Bill?***
- ***Whether there is anything you would disagree with or there are amendments you would wish to propose to these sections of the Bill?***
- ***Whether an alternative approach would be preferable?***

Throughout the pandemic local government including Integrated Joint Boards (IJB), has been at the forefront of the response supporting people and communities. It is the anchor in our communities and has worked tirelessly to support our most vulnerable people; children, young people, and families; the elderly; and local businesses. It has provided the services that improve our physical and emotional wellbeing and the environment. Using the experience of the previous 24 months demonstrates that, when given proper funding reflective of local need and demand and when empowered to act, local discretion and decision making will deliver significant improvements and drive a fairer and more equal Scotland.

Local decision making is critical so that decisions are made closest to the people receiving the services. Additionally, consideration should be given to the role for local democracy and the value this can bring: local accountability, intervening when things go wrong, and a very strong understanding of the needs of local communities. In Aberdeenshire, our local Councillors are part of their communities and are key to engagement with communities and individuals on health and social care services. There would be more value in the spheres of government working together to broaden the diversity of those stepping up to be the democratic voice of their communities, so that there is a greater variety of lived experience at the decision-making table. A local forum that is not democratic would not be able to represent or advocate effectively for communities, which is the main gap in terms of localism.

Local decision making and placemaking must be central in any national care model. Many IJBs have successfully achieved putting local people and their needs at the heart of everything that they do. The Aberdeenshire IJB works well, and the Health and Social Care Partnership brings together staff from the Council and NHS to focus on outcomes for the local public as noted in the Aberdeenshire Integration Joint Board Annual Audit Report 2019/20 published by Audit Scotland. The Annual Audit Report states that the IJB has a

clear vision that is shared by partners and reflects the views of local people who engaged with the plan's development.

Strategic planning and ethical commissioning (Chapter 2)

This Chapter of the Bill requires care boards to have a strategic plan setting out their vision, objectives and budgets for their care board area and incorporating an ethical commissioning strategy. Scottish Ministers must also have a strategic plan and an ethical commissioning strategy for any services provided at the national level.

The Policy Memorandum states that ethical commissioning strategies should set out "arrangements for providing services and how those arrangements have been designed to ensure they best reflect the NCS principles."

In providing comments on this chapter of the Bill, please consider:

- ***Whether you agree with these provisions?***
- ***Whether there is anything important missing from this chapter of the Bill?***
- ***Whether there is anything you would disagree with or there are amendments you would wish to propose to this chapter of the Bill?***
- ***Whether an alternative approach would be preferable?***

The ambition for all services should be that people receive seamless and person-centred care. The Feeley report recommended a NCS that was of equal value to the NHS and a national structure created that allowed for equal value and accountability of social work/social care. There is a potential that the widening of a NCS beyond Social Work/Social Care could undermine that aim, as described in the concerns from Children's Services.

Local decision making is critical so that decisions are made closest to the people receiving the services. Additionally, consideration should be given to the role for local democracy and the value this can bring: local accountability, intervening when things go wrong, and a very strong understanding of the needs of local communities.

It is important to have clear understanding on the future roles and responsibilities across all services that will be included in the National Care Service and the changes in legislation. Consideration needs to be given to scrutiny of services and how this will link with current and future oversight bodies if applicable.

There needs to be recognition of the strong relationships across current services including collaboration across teams, to deliver services within the current legislation in particular public protection areas and how this will change and be impacted within the implementation of a National Care Service. Future changes could breakdown working relationships including the knowledge and experience built from senior officers through collaboration for example public protection areas i.e. MAPPA Strategic Oversight Group.

National Care Service Charter (Sections 11 and 12)

Sections 11 and 12 of the Bill make provision for the Scottish Ministers to prepare and publish a National Care Service charter, to be co-designed with those with lived or living experience and reviewed on a five-yearly basis.

According to the Policy Memorandum, the Charter “will set out what people can expect from the NCS and provide a clear pathway to recourse should the rights in the Charter not be met.”

The first and subsequent versions of the charter must be subject to public consultation and a copy must be laid before the Scottish Parliament

In providing comments on these sections of the Bill, please consider:

- ***Whether you agree with provisions to create a National Care Service charter?***
- ***Whether there is anything important missing from these provisions?***
- ***Whether there is anything you would disagree with or there are amendments you would wish to propose to this chapter of the Bill?***
- ***Whether an alternative approach would be preferable?***

The Council supports the principle that improvement should be a key focus of the delivery of care services across Scotland and would highlight that the focus of improvement has to be person-centred care. Additionally, improvements must recognise and respect the role of the care workforce so it is seen on the same level as the NHS. This should be a clear and open process to all and not just kept centralised.

Local decision making and placemaking must be central in any national care model. Many IJBs have successfully achieved putting local people and their needs at the heart of everything that they do.

It should be recognised that there are clear statutory requirements for local authorities with the current legislation for example, management of offenders within Criminal Justice. We need to understand how this will change and what the impact will be, an understanding of future roles and responsibilities, including the financial implications on services if not all public protection services are moved to the National Care Service.

Out of the 3 options for alternative approaches to be considered, Aberdeenshire Council would be in favour of the following:

Do not transfer responsibility for social care to the Scottish Ministers but create an NCS to act as an advisory body at national level with statutory responsibility for social care provision remaining with local authorities. This option would see the Scottish Government establish an NCS focused on coordinating and leading improvement at national level, working with IJBs, local authorities and health boards. Similar to the above two options of not establishing an NCS, this option would permit some improvements to be made along the lines of existing action being taken. Although we recognise that this option would not address the issues about the lack of overall accountability for the quality and consistency of care.

Independent advocacy (Section 13)

Section 13 of the Bill gives Scottish Ministers powers to make provision via secondary legislation for independent advocacy services in connection with services provided by the National Care Service.

The Policy Memorandum highlights the emphasis placed by the Independent Review of Adult Social Care on the importance of access to independent advocacy and brokerage services, including peer services, “in empowering people accessing support and unpaid carers” and ensuring “that their voices are heard.”

It goes on to state the Scottish Government’s intention to “develop and implement a coherent, consolidated and consistent approach to independent advocacy services across the range of NCS services” and to do this through co-design with people with lived or living experience of accessing services.

In providing comments on this section of the Bill, please consider:

- ***Whether you agree with these provisions?***
- ***Whether there is anything important missing from this section of the Bill?***
- ***Whether there is anything you would disagree with or there are amendments you would wish to propose to this section of the Bill?***
- ***Whether an alternative approach would be preferable?***

The Council would suggest that the key issue is resourcing existing local services properly. Local services should be tasked to make improvements in line with standards set by NCS but at a local level, taking account of local needs. The requirements of communities across rural Aberdeenshire will be very different to those in cities such as Glasgow and Edinburgh. There is a concern that a one size fits all approach would lead to inequity and exacerbate current issues around lack of availability of local resources and support. Local decision making ensures that funding is directed to the right places.

Local decision making is critical so that decisions are made closest to the people receiving the services. Additionally, consideration should be given to the role for local democracy – and the value this can bring: local accountability, intervening when things go wrong, and a very strong understanding of the needs of local communities.

In Aberdeenshire, our local Councillors are part of their communities and are key to engagement with communities and individuals on health and social care services. There would be more value in the spheres of government working together to broaden the diversity of those stepping up to be the democratic voice of their communities, so that there is a greater variety of lived experience at the decision-making table. A local forum that is not democratic would not be able to represent or advocate effectively for communities, which is the main gap in terms of localism.

Complaints (Sections 14 and 15)

Sections 14 and 15 of the Bill make provision for a complaints service and for the handling of complaints.

The Policy Memorandum sets out the Scottish Government’s intention to “co-design to develop and strengthen the complaints system with those with lived experience.” The Scottish Government’s own consultation sought views on potential measures to underpin these complaints and redress processes, including the possible development of a model for the role of National Care Service Commissioner.



In providing comments on these sections of the Bill, please consider:

- ***Whether you agree with these provisions?***
- ***Whether there is anything important missing from these sections of the Bill?***
- ***Whether there is anything you would disagree with or there are amendments you would wish to propose to these sections of the Bill?***
- ***Whether an alternative approach would be preferable?***

It should be recognised that in some areas current complaints processes work well and are dealt with efficiently, by making this a central process will lose the person centred approach, especially within a local area and local decision making is critical so that decisions are made closest to the people receiving the services.

Additionally, consideration should be given to the role for local democracy – and the value this can bring: local accountability, intervening when things go wrong, and a very strong understanding of the needs of local communities. In Aberdeenshire, our local Councillors are part of their communities and are key to engagement with communities and individuals on health and social care services. There would be more value in the spheres of government working together to broaden the diversity of those stepping up to be the democratic voice of their communities, so that there is a greater variety of lived experience at the decision-making table. A local forum that is not democratic would not be able to represent or advocate effectively for communities, which is the main gap in terms of localism. This needs to be considered when implementing care boards nationally.

The opportunity to address the current two parallel complaint systems across health and social care would be valuable, ensuring consistency and clarity and a person-centred approach.

Ministers' powers to intervene (Chapter 4)

Sections 16 to 22 of the Bill establish powers for Ministers to intervene with respect to care boards and contractors, for instance in case of an emergency or of service failure.

In providing comments on this chapter of the Bill, please consider:

- ***Whether you agree with these provisions?***
- ***Whether there is anything important missing from this chapter of the Bill?***
- ***Whether there is anything you would disagree with or there are amendments you would wish to propose to this chapter of the Bill?***
- ***Whether an alternative approach would be preferable?***

The Council acknowledges that there are problems inherent in the current system and recognising that intervention if failing is good but is far from convinced that a National Care Service is an appropriate mechanism to drive improvement in areas such as workforce development and improvement programmes to raise standards of care and support, improvements in conditions of employment, and placing a greater value and recognition on those providing care, both paid and unpaid.

The loss of this element of local involvement, particularly when done in tandem with nationalising standards of care and approaches to commissioning and procurement, dilutes local planning and service delivery thereby increasing the risk of compounding the perception of a system that causes unnecessary hardship and suffering.

Local decision making is critical so that decisions are made closest to the people receiving the services. Additionally, consideration should be given to the role for local democracy – and the value this can bring: local accountability, intervening when things go wrong, and a very strong understanding of the needs of local communities. In Aberdeenshire, our local Councillors are part of their communities and are key to engagement with communities and individuals on health and social care services. There would be more value in the spheres of government working together to broaden the diversity of those stepping up to be the democratic voice of their communities, so that there is a greater variety of lived experience at the decision-making table. A local forum that is not democratic would not be able to represent or advocate effectively for communities, which is the main gap in terms of localism.

Connected functions (research, training, other activities, and compulsory purchase (Chapter 5)

Chapter 5 of the Bill establishes certain functions connected to the provision of care, including enabling Scottish Ministers and care boards to:

- ***conduct, assist in conducting or give financial assistance in relation to research;***
- ***to provide training or to provide financial support to undertake training;***
- ***to provide financial assistance to undertake other activities connected to the services provided to individuals by the National Care Service;***
- ***and to compulsorily purchase land required to exercise a relevant function.***

In providing comments on this chapter of the Bill, please consider:

- ***Whether you agree with these provisions?***
- ***Whether there is anything important missing from this chapter of the Bill?***
- ***Whether there is anything you would disagree with or there are amendments you would wish to propose to this chapter of the Bill?***
- ***Whether an alternative approach would be preferable?***

The Council supports the principle that improvement should be a key focus of the delivery of care services across Scotland and would highlight that the focus of improvement has to be person-centred care. Additionally, improvements must recognise and respect the role of the care workforce so it is seen on the same level as the NHS. This should be a clear and open process to all and not just kept centralised.

We would question if compulsory purchasing for all NCS functions is needed and that this should be clearer on what it would involve. The Council would like to see further consideration given to the possibility of Scottish Government intervention being targeted and focussed on the areas or services where it is needed, such as in workforce planning and setting minimum standards. The Council would request details of how the NCS would help to fix the significant problems around recruitment and retention of staff.



There needs to be further information and a better understanding on how the National Care service will be delivered in real time, what will be different and what impact this will be on health & care officers as well as clients.

Transfer of functions, including scope of services (Chapter 6 and Schedule 3)

Chapter 6 confers powers on Scottish Ministers to transfer functions between institutions as part of the National Care Service, These powers include the power to transfer functions from local authorities, to bring aspects of healthcare into the National Care Service, to re-organise the National Care Service and to transfer staff, property, and liabilities.

Items of legislation conferring specific functions on a local authority which may be transferred into the National Care Service are listed in Schedule 3, annexed to the Bill.

In providing comments on these sections of the Bill, please consider:

- ***Whether you agree with Scottish Ministers being given these powers?***
- ***Whether there is anything important missing from these sections of the Bill?***
- ***Whether there is anything you would disagree with or there are amendments you would wish to propose to these sections of the Bill?***
- ***Whether an alternative approach would be preferable?***

If the Integration Joint Boards become known as Care Boards, then it would still be appropriate for the Health and Social Care Partnerships to deliver health and social care services, however, there needs to be clarity as to whether the Board has a commissioning role (as presently) or a delivery role (currently through NHS and Council partners working together as the Health and Social Care Partnership).

The Council has significant concerns about the distraction of restructuring, during a time when services are under tremendous pressure responding and recovering from the pandemic. Improvements that could be implemented more immediately should be the priority. The cost of change is also an area of concern and when that cost is articulated, consideration should be given to what improvements could be made within the existing arrangements without the need for uncertainty and challenge across the workforce.

There is a risk in the removal of local decision-making in that the ability for locally democratically elected representatives to influence, and input to, improvements to community health and care services in their area on behalf of constituents and with the local knowledge that comes with that will be significantly reduced, along with the accountability at a local level. Local decision making and placemaking must be central in any national care model.

Many IJBs have successfully achieved putting local people and their needs at the heart of everything that they do. The Aberdeenshire IJB works well, and the Health and Social Care Partnership brings together staff from the Council and NHS to focus on outcomes for the local public as noted in the Aberdeenshire Integration Joint Board Annual Audit Report 2019/20 published by Audit Scotland. The Annual Audit Report states that the IJB has a

clear vision that is shared by partners and reflects the views of local people who engaged with the plan's development.

The Council notes the inclusion of the founding principles in the consultation such as how social care is understood and valued by individuals and our society, how it is funded and paid for into the future, the need for a person-centred approach to care and support in Scotland, and how Fair Work is achieved for all the social care workforce. We appreciate the need to recognise and respect the role of the care workforce, so it is seen at the same level as the NHS. We do not dispute that change is necessary to improve the consistency, quality, and equity of care in Scotland however we do not agree that a national body is the correct vehicle to progress improvements and would welcome exploration of other models.

With the introduction of the National Care Service there needs to be clarity on the impact on all public protection services. There should be recognition of the strong relationships and collaboration across all areas of public protection especially in local areas and how this will be impacted as the National Care Service progresses.

Any changes in legislation for Adult Services will also impact on child protection and services. The transfer of public protection services to the NCS cannot be fully understood, until details of the changes to legislation and its functions is able to be analysed by public protection teams.

NCS should not be responsible for Children's Services, Community Justice Partnership, Alcohol and Drugs Partnership etc. This proposal extends the recommendations in the Feeley report significantly and should be defined only to the parameters of what was originally intended.

This raises the question on whether there is a clear understanding within a NCS of social work delivery and the range that this area covers: social care, preventative work, applying legislation and protection for both adults and children.

It is important that the focus for a National Care Service remains on the outcomes a person has first and not just on equality or comparability of service provision. We need to have a better understanding on how the National Care Service will be delivered in real time, what will be different and what impact this will have for health & care officers as well as clients.

Inclusion of children's services and justice services (Section 30)

Chapter 6 also makes provision for the inclusion of children's services and justice services within the scope of the National Care Service at some point in the future, subject to a public consultation on the proposed inclusion of these services. It is proposed that any such inclusion of these services within the scope of the National Care Service would be achieved via secondary legislation.

In providing comments on this section of the Bill, please consider:

- ***Whether you agree with proposals to include children's services and justice services within the scope of the National Care Service, either now or in the future?***
- ***Whether there is anything important missing from this section of the Bill?***
- ***Whether there is anything you would disagree with or there are amendments you would wish to propose to this section of the Bill?***

- ***Whether an alternative approach would be preferable?***

In relation to the inclusion of children's services within the NCS, whilst the ambition of cradle to grave ethos is recognised there are concerns around the approach and how this would work in practice. One of the critical concerns is the delivery of a model that reflects local need. Aberdeenshire's Children's Services Social Work has a good reputation nationally and is recognised for their commitment to improvement activity that is strongly linked to lived experience and improving outcomes. There is a risk that this could be lost in a centralised service. By their very nature, actions to address breaking down barriers will create new barriers.

Children's Services are deeply embedded in the existing local arrangements, in particular with education services. Any move away from this could seriously impact on existing and strong working relationships with a risk to the way services are delivered. Government needs to set out the rationale for this last-minute addition to the scope and how the NCS would benefit children and young people. The Council is progressing well in terms of its commitments to deliver The Promise. Imposing a restructure will impact progress significantly and place already stretched resources under considerable strain.

With the introduction of the National Care Service there needs to be clarity on the impact on all public protection services. Any changes in legislation for Adult Services will also impact on child protection and services. The transfer of public protection services to the NCS cannot be fully understood, until details of the changes to legislation and its functions is provided and that relevant stakeholders are able to give consideration to any changes.

The Feeley report recommended a NCS that was of equal value to the NHS and a national structure created that allowed for equal value and accountability of social work/social care. There is a potential that the widening of the NCS beyond Social Work/Social Care could undermine that aim, as described in the concerns from Children's Services.

NCS should not be responsible for Children's Services, Community Justice Partnership, Alcohol and Drugs Partnership etc. This proposal extends the recommendations in Feeley significantly and should be defined only to the parameters of what was originally intended.

This raises the question on whether there is a clear understanding within a NCS for social work delivery and the range that this area covers social care, preventative work, applying legislation and protection for both adults and children.

It is important that the focus for the National Care Service remains on the outcomes a person has first and not just on equality or comparability of service provision. We need to have a better understanding on how the National Care Service will be delivered in real time, what will be different and what impact this will have for health & care officers as well as clients.

Consequential modifications / Interpretation of Part 1 (Chapter 7 and Schedule 4)

Chapter 7 makes consequential modifications to the following legislation to reflect proposals set out in this part of the Bill (set out in Schedule 4, annexed to the Bill):

- ***Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947***

- ***Local Government (Scotland) Act 1973***
- ***Public Services Reform (Scotland) Act 2010***

It should be noted that Integration Joint Boards do not currently have legal standing to own property, all property is either owned or leased by Councils or NHS. There will be a need to have clearer information on the future arrangements with care boards around these assets and functions giving implications for the strategic use linked to service needs, the ownership and the management of property assets, investment and disinvestment decisions, programme and project delivery with the associated related financial implications and not just compulsory purchase options.

Areas to consider include

- Transfer of property and liabilities – what happens to dual purpose facilities? Does the borrowing against these properties also transfer or what do they propose happens there?
- Employees – what happens to staff who cover both transferred and non-transferred functions, and how can the operation of TUPE be suspended re NHS employees?
- VAT – has this been considered, given what happened in the Police Scotland reorganisation?

Given that it has been identified within the FM that local care boards could plan and commission local services within local authorities through a procurement process, there will be huge financial implications to this and these need to be identified on what authorities may lose if Care Boards take an independent route to procuring services and how the TUPE of staff will be met. This is not just about direct services or staff, but the additional support that these Care Boards will need and the costs aligned to delivery by local authorities and these need to be clearer.

There are clear statutory requirements for local authorities with the current legislation for example Management of Offenders within Criminal Justice. There needs to be clarity on how this will change and what the impact will be, including the financial implications on some services if not all public protection services move to the National Care Service.

There should be acknowledgement of the strong relationships and collaboration across all areas of public protection especially in local areas and how this will be impacted if public protection changes as the National Care Service progresses.

Health and social care information (Part 1)

For the purposes of interpreting Part 1 of the Bill, Chapter 7 defines the National Care Service as comprising “care boards” and “the Scottish Ministers in so far as they are exercising a function” conferred on them by virtue of Part 1 of the Bill or an aspect of healthcare that has been “designated as a National Care Service function”. In providing comments on this chapter of the Bill, please consider:



- ***Whether you agree with these provisions?***
- ***Whether there is anything important missing from this chapter of the Bill?***
- ***Whether there is anything you would disagree with or there are amendments you would wish to propose to this chapter of the Bill?***
- ***Whether an alternative approach would be preferable?***

There is no mention of the Health and Social Care Partnership (HSCP) in the document, what are the plans for their futures? They are the current delivery arm of the IJB, is this still envisaged for care boards? Would legislation put HSCP's on a footing where they can directly employ staff?

If the Integration Joint Boards become known as Care Boards, then it would still be appropriate for the Health and Social Care Partnerships to deliver health and social care services, however, there needs to be clarity as to whether the Board has a commissioning role (as presently) or a delivery role (currently through NHS and Council partners working together as the Health and Social Care Partnership).

The uncertainty around this is damaging to our workforce. Taking away democratic governance would weaken the development of the place principle. Restructuring in terms of the employment of staff and the ownership of property would take years to achieve – and the improvements we seek could be achieved more quickly through the current system, resourced and empowered.

It is important that the focus for the National Care Service remains on the outcomes a person has first and not just on equality or comparability of service provision. We need to have a better understanding on how the National Care service will be delivered in real time, what will be different and what impact this will for health & care officers as well as clients.

There needs to be recognition of the strong relationships across current services including collaboration across teams, in particular public protection areas and how this will change and be impacted within the implementation of a National Care Service and care boards.

Potentially there is an impact to well established structures in place that work together to deliver services within the current legislation. Future changes could breakdown working relationships, with knowledge and experience from senior officers in collaboration being removed for example public protection areas – MAPPA Strategic Oversight Group.

Health and social care information (Part 2)

Part 2 of the Bill gives the Scottish Ministers powers to establish a scheme for care records to be shared between the proposed National Care Service and the National Health Service. It also makes provision for Scottish Ministers to produce an information standard which will set out how certain information is to be processed. In providing comments on this part of the Bill, please consider:

- ***Whether you agree with these provisions?***
- ***Whether there is anything important missing from this part of the Bill?***

- ***Whether there is anything you would disagree with or there are amendments you would wish to propose to this part of the Bill?***
- ***Whether an alternative approach would be preferable?***

Establishing the sharing of care records between the NCS and NHS would make sense, in principle this sounds like a good idea. However, one system, or integrated systems would need to be in place with clarity on responsibility for that information, for access to the information. The data required from the NHS would also still be held in a separate system unless this was merged together. It would be possible to do this without an investment in a new public service but to invest the funding into the current services to enable better delivery would ensure more timely improvements.

It is clear that the outcome and intention here is useful for service users, professionals and would allow connections to information at pace which can be critical in helping a wider picture so that care needs can be understood and met. However, this would require clear data sharing protocols and systems investment.

There is a consensus across Health and Social Care that there could be a consistent, integrated social care and health record however this would be challenging to achieve in practice. The main considerations would be:

- There needs to be detailed consideration at this stage by Scottish Government on how this information be shared, and how will this comply with GDPR?
- Further consideration needs to be given on Lessons learned from implementing the Named Person model.
- A person centred approach should be delivered with no duplication of information within the process and the information/record should always follow the client/ patient.
- Any UNCRC implications/ changes need to be outlined and how these will be addressed going forward.
- Who the 'data controller' of the record actually is?
- Where would an individual make a Freedom of Information or Subject Access Request?
- What retention periods would be applied to the record as these currently vary widely across Social Care and Health.
- What happens is the service user does not agree with the plan?

To ensure consistency, there would need to be one centralised system which may still prove difficult as consistency of recording is variable across Aberdeenshire within the current system. It would take years and extensive resources to cover the time and cost of procuring, developing, and implementing a national system. The focus should be on integrating current systems, preferably across the UK, to allow them to speak to each other.

Right to breaks for carers (Sections 38 and 39)

Sections 36 and 37 of the Bill propose amendments to the Carers (Scotland) Act 2016 and consequent changes to the Social Care (Self-directed Support) (Scotland) Act



2013, principally with a view to establishing a right to breaks for carers. In providing comments on these sections of the Bill, please consider:

- ***Whether you agree with the proposed amendments to the Carers (Scotland) Act 2016?***
- ***Whether there is anything important missing from these sections of the Bill?***
- ***Whether there is anything you would disagree with or there are amendments you would wish to propose to these sections of the Bill?***
- ***Whether an alternative approach would be preferable?***

The Council notes the inclusion of the founding principles in the consultation such as how social care is understood and valued by individuals and our society, how it is funded and paid for into the future, the need for a person-centred approach to care and support in Scotland, and how Fair Work is achieved for all the social care workforce. We appreciate the need to recognise and respect the role of the care workforce, so it is seen at the same level as the NHS. We do not dispute that change is necessary to improve the consistency, quality, and equity of care in Scotland however we do not agree that a national body is the correct vehicle to progress improvements and would welcome exploration of other models and consideration on national standard to be put in place.

Implementation of Anne's Law (Section 40)

Section 40 of the Bill proposes amendments to the Public Services Reform (Scotland) Act 2010 with a view to supporting implementation of "Anne's Law" related to visits to or by care home residents.

In providing comments on this section of the Bill, please consider:

- ***Whether you agree with the proposed amendments to the Public Services Reform (Scotland) Act 2010?***
- ***Whether there is anything important missing from this section of the Bill?***
- ***Whether there is anything you would disagree with or there are amendments you would wish to propose to this section of the Bill?***
- ***Whether an alternative approach would be preferable?***

The Council notes the inclusion of the founding principles in the consultation such as how social care is understood and valued by individuals and our society, how it is funded and paid for into the future, the need for a person-centred approach to care and support in Scotland, and how Fair Work is achieved for all the social care workforce. We appreciate the need to recognise and respect the role of the care workforce, so it is seen at the same level as the NHS. We do not dispute that change is necessary to improve the consistency, quality, and equity of care in Scotland however we do not agree that a national body is the correct vehicle to progress improvements and would welcome exploration of other models consideration on national standard to be put in place.

Reserved right to participate in certain contracts (Section 41)

Section 41 of the Bill proposes amendments to the Public Contracts (Scotland) Regulations 2015 to allow the right to bid for contracts for certain services to be reserved to certain types of organisation.

In providing comments on this section of the Bill, please consider:

- ***Whether you agree with the proposed amendments to the Public Contracts (Scotland) Regulations 2015?***
- ***Whether there is anything important missing from this section of the Bill?***
- ***Whether there is anything you would disagree with or there are amendments you would wish to propose to this section of the Bill?***
- ***Whether an alternative approach would be preferable?***

A national approach for public contracts risks jeopardising existing workstreams to develop complex care services locally and delaying the establishment of resources. If you're reserving a contract then you are putting into your tender a qualification criteria that would narrow the number of potential bidders who could be considered. This risks narrowing an already very narrow local market and this change could lead to zero competition. The experience from SXL Adult Residential Care framework has demonstrated advantages of local arrangements. But going nationally will mean local market and demographics and local sectoral challenges less likely to be understood and the importance of local accountability overlooked. Although Children's Services have benefited from a nationally agreed price, management of these large frameworks at a national level is problematic – particularly around budget setting – fees this year have only just been agreed (July) and the negotiations seem to favour the provider position (supply and demand). How can services plan their budgets to cope with large percentage increases so late on in the year? The NCS would have to be far more organised and determine these costs at the start of the financial year. It should be recognised that centralisation and a national team will always undermine local drivers. A reduction in support services through nationalisation risks impacts on other elements of Local Authority that share resources and assets.

We have made great progress in integrating health and social care services since the Public Bodies (Joint Working) (Scotland) Act 2014 was introduced. The quality of care has been enhanced by multi-disciplinary working delivered through a locality model with co-located teams, centred around General Practices. The setting up of the new Board would disaggregate close team working which would set back the progress that has been made on integration and seamless services for our residents. The Care Inspectorate, NHS National Procurement and Scotland Excel should play a role along with other relevant agencies such as Scottish Care and COSLA – there is experience in those agencies that is worth utilising.

Regulation of social services (Sections 42 and 43)

Sections 42 and 43 of the Bill propose amendments to the Public Services Reform (Scotland) 2010 Act to stipulate additional circumstances in which registration of a care service may be cancelled and to authorise Healthcare Improvement Scotland to assist the Care Inspectorate in carrying out investigations of care services.

In providing comments on these sections of the Bill, please consider:

- ***Whether you agree with the proposed amendments to the Public Services Reform (Scotland) Act 2010?***
- ***Whether there is anything important missing from these sections of the Bill?***



- ***Whether there is anything you would disagree with or there are amendments you would wish to propose to these sections of the Bill? Whether an alternative approach would be preferable?***

It is recognised that Regulation needs to be independent and proportionate; with balance on scrutiny, assurance, and improvement. An area for improvement is around responsiveness and also needs to be consistent across Scotland. The Care Inspectorate, NHS National Procurement and Scotland Excel should play a role along with other relevant agencies such as Scottish Care and COSLA – there is experience in those agencies that is worth utilising.

NCS standards and processes have the potential to ensure consistency of improvements and standards, but we would agree that there is a requirement to be able to respond to local variances and encourage local accountability. For example, a current model that is in place is “Care Home Assurance Teams.” These teams work well and enable local, supportive relationships to be developed with providers and drives improvement – this is a model which could be built upon. However, to develop this effectively would include all the social work support that will enable effective provision of care, this will require investment into more than nursing capacity.

There can be occasions when action needs to be swift in order to protect vulnerable people at risk – there also need to be checks and balances to ensure that radical actions which may impact on individuals (e.g. closure of homes forcing people to move) are not taken without appropriate scrutiny. Other than in cases whether individuals are at real risk action should support quality improvement rather than being punitive.

It would make sense for the NCS to set out a structure of standards and processes as a foundation upon which to build. But it should be recognised that consideration be given to an option of having standards and processes for local delivery, which would help recognise the unique nature of Scotland’s communities and offer better services to the people living in those communities must still exist.

Potentially there is an impact to well established structures that are in place, these work together to deliver services within the current legislation. Future changes could breakdown these working relationships with knowledge and experience from senior officers in collaboration being lost. E.g. public protection areas – MAPPA Strategic Oversight Group.

It should be recognised that there are clear statutory requirements for local authorities within the current legislation for example Management of Offenders within Criminal Justice and the strong relationships in place across current services including collaboration across teams. Further clarity needs to be given on how this will change and what the impact will be, including the financial implications on some services if not all public protection services as these move to the National Care Service and care boards.

This raises the question on whether there is a clear understanding within the NCS of social work delivery and the range that this area covers social care, preventative work, applying legislation and protection for both adults and children.

It is important that the focus for the National Care Service remains on the outcomes a person has first and not just on equality or comparability of service provision. We need to

have a better understanding on how the National Care service will be delivered in real time, what will be different and what impact this will have for health & care officers as well as clients.

Final provisions (Part 4)

As well as defining what is meant by “health board” and “special health board” for the purposes of interpreting the contents of the Bill, setting out ancillary provisions, defining the date of commencement of the legislation and setting out its short title, Part 4 of the Bill sets out regulation-making powers to be conferred on Scottish Ministers via secondary legislation.

In providing comments on this part of the Bill, please consider:

- ***Whether you agree with regulation-making powers conferred on Scottish Ministers by section 46 of the Bill?***
- ***Whether there is anything important missing from this part of the Bill?***
- ***Whether there is anything you would disagree with or there are amendments you would wish to propose to this part of the Bill?***
- ***Whether an alternative approach would be preferable?***

The Council has significant concerns about the distraction of restructuring, during a time when services are under tremendous pressure responding and recovering from the pandemic. Improvements that could be implemented more immediately should be the priority. The cost of change is also an area of concern and when that cost is articulated, consideration should be given to what improvements could be made within the existing arrangements without the need for uncertainty and challenge across the workforce.

There is a risk in the removal of local decision-making in that the ability for locally democratically elected representatives to influence, and input to, improvements to community health and care services in their area on behalf of constituents and with the local knowledge that comes with that will be significantly reduced, along with the accountability at a local level. Local decision making and placemaking must be central in any national care model. Many IJBs have successfully achieved putting local people and their needs at the heart of everything that they do. The Aberdeenshire IJB works well, and the Health and Social Care Partnership brings together staff from the Council and NHS to focus on outcomes for the local public as noted in the Aberdeenshire Integration Joint Board Annual Audit Report 2019/20 published by Audit Scotland. The Annual Audit Report states that the IJB has a clear vision that is shared by partners and reflects the views of local people who engaged with the plan’s development.

Restructuring in terms of the employment of staff and the ownership of property would take years to achieve – and the improvements we seek could be achieved more quickly through the current system, resourced, and empowered

We have different models of integration across Scotland – what value the disruption in changing this? Taking away democratic governance would weaken the development of the place principle.

If the Integration Joint Boards become known as Community Health and Social Care Boards then, it would still be appropriate for the Health and Social Care Partnerships to deliver health and social care services, however, there needs to be clarity as to whether the

Board has a commissioning role (as presently) or a delivery role (currently through NHS and Council partners working together as the Health and Social Care Partnership).

Integration Joint Boards do not currently have legal standing to own property, all property is either owned or leased by Councils or NHS. There will be a need to consider the arrangements with a future National Care Service giving implications for the strategic use of assets linked to service needs, the ownership and the management of property assets, investment and disinvestment decisions, programme, and project delivery with the associated related financial implications.

There seems to be no commitment to the funding allocated to social work/social care services. Costings that have been proposed seem to be around funding the transformation rather than the actual service delivery which if we are expected to deliver these services in an improved way, will need to be fully funded and there should be local discretion in relation to the extent of delegation of children's social work.

Scottish Government must fully consider the TUPE implications for both Council and NHS staff before further progressing a National Care Service, as it appears TUPE is as applicable to the NHS as it is to local authorities.

It needs to be recognised the impact, potentially of current well established structures in place that work together to deliver services within the current legislation. Future changes could breakdown these working relationships with knowledge and experience from senior officers in collaboration across services, NHS, and public protection areas. There needs to be recognition of these strong relationships and how this will change and be impacted within the implementation of a National Care Service and care boards.