

NATIONAL CARE SERVICE – STAGE 2 SCRUTINY CALL FOR VIEWS

1.0 EXECUTIVE SUMMARY

- 1.1 The Scottish Parliament's Health, Social Care, and Sport Committee launched a Call for Views on 1st July as part of its Stage 2 scrutiny of the National Care Service (Scotland) Bill.
- 1.2 Officers have considered the 9 key questions posed as part of the Call for Views and attached at appendix 1 is the proposed response, which is due to be submitted by 30th August deadline. This response is in line with the previous submissions made by the Council.
- 1.3 Members are asked to:-
- a) Consider and agree the draft response detailed at appendix 1; and
 - b) Agree that Officers arrange for the approved response to be submitted by 30th August 2024 deadline.

NATIONAL CARE SERVICE – STAGE 2 SCRUTINY CALL FOR VIEWS

2.0 INTRODUCTION

- 2.1 The Scottish Parliament’s Health, Social Care, and Sport Committee launched a Call for Views on 1st July as part of its Stage 2 scrutiny of the National Care Service (Scotland) Bill.
- 2.2 Officers have considered the 9 key questions posed as part of the Call for Views and attached at appendix 1 is the proposed response, which is due to be submitted by 30th August deadline. This response is in line with the previous submissions made by the Council.

3.0 RECOMMENDATIONS

- 3.1 Members are asked to:-
- a) Consider and agree the draft response detailed at appendix 1; and
 - b) Agree that Officers arrange for the approved response to be submitted by 30th August 2024 deadline.

4.0 DETAIL**Background/Context**

- 4.1 The [Independent Review into Adult Social Care \(IRASC\)](#) recommended the establishment of a National Care Service (NCS). Subsequently, the Scottish Government launched the Consultation “A National Care Service for Scotland” on 9th August 2021 to seek views from a range of stakeholders on the creation of a NCS. The IRASC was commissioned to recommend improvements to adult social care, however this consultation extended the scope of the review to include other service areas such as children and families, community justice, alcohol and drug services, mental health services, and social work.
- 4.2 Taking account of discussions and feedback received from elected members, including at the Seminar held on 21st September, and at Council on 30th September 2021, Officers developed a response to the consultation, which was agreed at the Special Council meeting held on 28th October 2021. The final

response was submitted in advance of the 2 November 2021 deadline and can be accessed [here](#).

4.3 Following the National Care Service Consultation the Scottish Government introduced the [National Care Service \(Scotland\) Bill](#) to the Scottish Parliament on 20th June 2022. The Bill proposes to establish a National Care Service and allow the Scottish Ministers to transfer social care responsibility from local authorities to a NCS through secondary legislation.

4.4 In addition to the 2021 consultation, the Scottish Government hosted a number of NCS forums across different communities in Scotland during summer/autumn 2023. The purpose of these events was to inform work to co-design the new NCS with those who receive or deliver social care, social work and community healthcare support.

The reports published by the Scottish Government on each of these themes can be found on their [here](#).

4.5 **Progress of the *National Care Service (Scotland) Bill***

4.5.1 The Bill establishes the National Care Service. The Bill allows Scottish Ministers to transfer social care responsibility from local authorities to a new, national service. 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.

Stage 1 – General Principles

4.5.2 At this stage of the process the Bill is given to a lead committee – in this instance the Health, Social Care and Sport Committee. The lead committee is responsible for examining the Bill and gathering views from a range of stakeholders including experts, organisations and members of the public. A stage 1 report is then written, usually setting out the views collated and making recommendations on whether the Parliament should support the main purpose of the Bill. The Parliament then debate the Bill and decide whether it should go to stage 2, or be rejected.

4.5.2 As part of the evidence gathering process at stage 1 a Call for Views was issued to the Council by the Health, Social Care and Sport Committee on 8th July 2022, inviting comments by 2nd September 2022. A response was coordinated by the Council's NCS Officer Working Group, which was in line with the initial consultation response agreed by Council in October 2021, setting out our main concerns with the Bill, and the process undertaken to date. The Council's response to the Call for Views was agreed by ELT on 30th August 2022, and a copy can be found [here](#). The Bill passed Stage 1 (approval of general principles) on 29th February 2024.

Stage 2 – Changes to Detail

4.5.3 A meeting of the Health, Social Care and Sport Committee took place on 26th March 2024, where they considered the Bill (in a private session). Therein the Committee considered its approach to the scrutiny of the Bill at Stage 2 and agreed, subject to the Scottish Government providing draft versions of its Stage 2 amendments, to undertake further scrutiny of those draft amendments once they were made available.

4.5.4 The Health, Social Care and Sport Committee have now issued a call for written evidence to obtain views on the draft amendments the Scottish Government is proposing to make to the Bill at stage 2 - details of the proposed amendments, and the full suite of information provided by the Scottish Government, can be found [here](#).

4.6 **Our Response**

4.6.1 Officers have considered the 9 key questions being posed as part of the Call for Views and have drafted the response detailed at appendix 1 of this report. Our response is in line with previous submissions made and is cognisant of the extensive discussions and negotiations that COSLA have been engaged in with the Scottish Government concerning a number of ongoing challenges and risks in respect of the NCS. There is growing disappointment from COSLA that these negotiations have not resulted in positive outcomes, with a number of matters remaining unresolved, including:-

- Substantial delays in the detailed amendments from the Scottish Government being produced;
- No formal agreement on precise responsibilities, organisational status, and accountability arrangements of the NCS National Board, including its interaction with the local system and the details of a Support and Improvement Framework;
- Children's and Justice Social Work Services (CSJSWS) – Scottish Government and COSLA have been unable to reach an effective or acceptable compromise in respect of whether CSJSWS should form part of the NCS. Despite negotiations since February, the Scottish Government remain intent in fully incorporating CJSWS, whereas COSLA are of the view that the delegation of CJSWS should remain a local decision and not fall within the scope of NCS. The latter view is in line with the comments provided by the Council in response to the NCS consultation in October 2021.
- Power for Scottish Ministers to directly fund local Integration Authorities - currently, funding for Integration Authorities is routed via the local authority and NHS Board. Scottish Government continue to seek the legislative power for Scottish Ministers and/or the NCS National Board to be enabled to provide direct funding to integration authorities. There remains significant concerns over the potential implications such a power could have.
- National Social Work Agency (NSWA) – no formal agreement on the structure of the agency and the detail of accountability arrangements between Local Government, Scottish Government and the NSWA.

- 4.6.2 Officers will continue to monitor progress with the Bill and pick up any actions required from the Council, for example responding to any further calls for views and the continuation of briefings for the Leader/Chief Executive ahead of COSLA meetings.

5.0 CONCLUSION

- 5.1 This report invites members to consider and approve the proposed response to the call for views as part of the Stage 2 scrutiny of the National Care Service (Scotland) Bill. If agreeable, Officers will arrange for the final response to be submitted by the 30th August deadline.

6.0 IMPLICATIONS

- 6.1 Policy - none arising from this report
- 6.2 Financial – envisage significant investment will be required to deliver the proposals
- 6.3 Legal – new legislative requirements will be introduced if Bill is enacted
- 6.4 HR - Significant potential implications for Council employees working in social work and social care
- 6.5 Fairer Scotland Duty: none arising from this report
- 6.5.1 Equalities - protected characteristics
- 6.5.2 Socio-economic Duty
- 6.5.3 Islands
- 6.6 Climate Change - none arising from this report
- 6.7 Risk - none arising from this report
- 6.8 Customer Service - none arising from this report
- 6.9 The Rights of the Child (UNCRC) - none arising from this report

Douglas Hendry

Executive Director with responsibility for Legal and Regulatory Support

Policy Lead for Care Services – Councillor Dougie McFadzean

24th July 2024