

To: Council

On: 29 September 2022

Report by: Chief Executive

Heading: National Care Service Bill Consultation

1. Summary

- 1.1 This paper provides an update for elected members on the proposed development of a National Care Service (NCS) in Scotland.
- 1.2 As elected members are aware, the Scottish Government has been working to develop proposals for a National Care Service, following the publication of Independent Review of Adult Social Care Services led by Derek Feeley in 2021, which identified a number of improvements that needed to be progressed to improve the quality and accessibility of adult social care services in Scotland.
- 1.3 Scottish Government have identified the National Care Service as the mechanism by which these improvements can be delivered, and undertook a consultation on the proposed establishment of the National Care model in late 2021. The consultation sought the views of all stakeholders on its establishment, including the possible extension of the scope of a new service to include childrens and criminal justice social work. The Council submitted a formal response to the consultation in November 2021, following its approval at the full Council on 30 September 2021.
- 1.4 In March 2022 the Scottish Government published independent analysis of the consultation responses received, and indicated that it intended to bring forward legislation to establish a National Care Service in Summer 2022.
- 1.5 The National Care Service (Scotland) Bill was subsequently introduced to Parliament on 20 June and its accompanying documents were published on 21 June 2022.
The Bill sets out provisions to enable Ministers to transfer social care responsibility from local authorities to local care boards. The Bill establishes a

National Care Service; sets out provision for the processing of health and social care information; and sets out provision for the delivery and regulation of social care.

- 1.6 The Bill itself should be considered as enabling legislation that will facilitate the transfer of accountability for adult social work and social care services to Scottish Ministers by 2026. Much of the required detail in relation to the establishment of the NCS itself, including the establishment of local care boards to replace Integration Joint Boards, has not yet been developed, and the Bill and associated documentation proposes that this is implemented through secondary legislation. The Bill also facilitates the possible transfer of additional services such as children and families and criminal justice to the NCS at a later stage through this secondary legislation, subject to further consultation.
- 1.7 The lack of detail provided within the Bill, makes it particularly difficult to comment on the potential impact of the proposed NCS, and to assess the likely implications for service users and carers, the workforce and the organisation as a whole. This is a deeply concerning position for the local authority to be in, and officers have worked with professional organisations such as COSLA, SOLACE and SOLAR to assess the proposed legislation and identify a range of issues which require further clarity.
- 1.8 The Bill is now progressing through various Scottish Parliamentary committees, with a recent consultation exercise on the Bill and its provisions launched by the Health, Social Care and Sport Committee on 8 July 2022, with all responses to be submitted by 2nd September 2022. A draft consultation response was submitted by Renfrewshire Council to the Committee subject to approval of full Council in order to comply with this deadline.
- 1.9 The draft response reiterated the position of the Council, as submitted to Scottish Government through the national consultation exercise in 2021, whilst reflecting a number of key points and issues which were identified through professional networks.
- 1.10 Elected members are asked to consider the response and homologate its submission to Scottish Government in order to meet the 2 September deadline set by the Health, Social Care and Sport Committee.
- 1.11 Further updates on the consultation and any agreed next steps, will be provided to elected members as soon as this information becomes available.

2. Recommendations

- 2.1 Council is asked to:

- Homologate the response to the National Care Service Bill consultation, which was submitted as a draft and subject to Council approval, to the Health, Social Care and Sport Committee on 2 September 2022.
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3. Background

- 3.1 In September 2020 the Scottish Government announced that it intended to commission an independent review of adult social care in Scotland. The review was identified as a key element of the 2020 Programme for Government, and was expedited in order that key findings could be published in early 2021.
- 3.2 The review was led by Derek Feeley, a former Scottish Government Director General for Health and Social Care and Chief Executive of NHS Scotland, who was supported by an Advisory Panel comprising of a range of experts. The principal aim of the review was to recommend improvements to adult social care in Scotland, particularly as the country moves forward from the pandemic.
- 3.3 Following a process of engagement and consultation, the final report from the independent review was published on 3 February 2021. The key findings were considered in a report to full Council on 4 March 2021, which noted the potentially significant implications that the recommendations could have for the Council if implemented.
- 3.4 Following the publication of the Independent Review of Adult Social Care, the Scottish Government made a commitment to implement key recommendations, including the creation of a National Care Service. On 9 August 2021, the Scottish Government published “A National Care Service for Scotland” consultation document, which sets out proposals to change the way in which social care is delivered in Scotland through the establishment of a National Care Service. The scope of the proposals were much broader than initially set out in the Feeley review, extending beyond adult care services to potentially include all care and social work services.
- 3.5 Council approved its submission to the national consultation in September 2021, with the overarching position stated as follows:

<p>Renfrewshire Council does not support proposals to create a National Care Service and to transfer accountability of adult social care from the local authority. There is no evidence that the structural changes proposed within the consultation would deliver on the outcomes local people, carers and social care workers want to see change now. Like the NHS, social care services need to rebuild and recover from the response to the pandemic and focus on tackling widening inequalities and levels of harm across communities – this needs to be the primary focus of local health and social services and not the distraction and disruption of unnecessary structural reform.</p>
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- 3.6 In March 2022 the Scottish Government published independent analysis of the consultation responses received, and indicated that it intended to bring forward legislation to establish a National Care Service in Summer 2022.
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4. National Care Service Bill

- 4.1 The National Care Service (Scotland) Bill was subsequently introduced to Parliament on 20 June and its accompanying documents were published on 21 June 2022. The Bill sets out provisions to enable Ministers to transfer social care responsibility from local authorities to local care boards. The Bill establishes a National Care Service; sets out provision for the processing of health and social care information; and sets out provision for the delivery and regulation of social care.
- 4.2 Overall the Bill provides very limited detail on the operation of the National Care Service, which makes it impossible to assess the impact of its establishment for service users and carers, the Council's workforce or for the organisation as a whole. It is reasonable to suggest that the level of detail that has available has not moved on at all from that which was provided almost a year ago.
- 4.3 The proposed structural change which is being proposed is the most significant to impact local authorities for decades, and it is therefore increasingly concerning that this detail has not yet been developed.
- 4.4 The Bill is now progressing through various Scottish Parliamentary committees, with a recent consultation exercise on the Bill and its provisions launched by the Health, Social Care and Sport committee on 8 July 2022, with all responses to be submitted by 2nd September 2022. A draft consultation response was submitted by Renfrewshire Council to the Committee subject to approval of full Council in order to comply with this deadline.
- 4.5 The draft consultation response is attached as Appendix 1 to this report for consideration by elected members. The response reflects the key concerns and points of clarity which have been raised by professional organisations including COSLA, SOLACE, SOLAR, Directors of Finance and Social Work Scotland. The key messages can be summarised as follows:

In terms of commenting on the Bill specifically, the lack of detail within the associated documents make it impossible to meaningfully assess the proposals contained therein. The lack of detail suggests that the plan to develop the National Care Service is underdeveloped, and that the scale and complexity in terms of implementing this national model is not fully understood.

Given the number of service users, carers and employees potentially impacted by the establishment of the proposed new arrangements, and the significant proportion of the local authority budget that is used to fund these services, the proposed enabling primary legislation and use of secondary legislation to implement change is not appropriate. Full scrutiny of the

detail of any proposed changes to governance, budgets and service delivery should be undertaken by the Scottish Parliament.

Following discussions through representative professional organisations such as COSLA, SOLACE, CIPFA, it is important to highlight the following high-level points:

- There remains a lack of evidence to support that a National Care Service as currently proposed will do anything to deliver better and improved outcomes for service users and carers. It is widely accepted and acknowledged that there are many aspects of social care where improvements and better outcomes can be achieved, however this position is reflective of a lack of investment and current systems, service levels and outcomes being achieved have been necessarily aligned to the existing resources levels that are widely recognised as been inadequate to support delivery of the shared outcomes and improvements envisaged for social care in Scotland.
- The structural change proposed is immensely complex and will take many years to implement and fully embed, and indeed has been promoted as the most significant change to the public sector in Scotland since the creation of the NHS. Consequently, it will be highly disruptive and necessarily demand and consume very significant levels of expert resource and capacity across our social care and public sector systems. It is inevitable that during this period capacity and focus will be diverted from progressing the improvement agenda at pace, and indeed risks creating a long period of stagnation in terms of delivering improvement and better outcomes. It would be better for all partners to continue to work together to build on what has been achieved to date, particularly over the pandemic period, with new investment redirected to support improvements and reform through existing structural mechanisms.
- Additional investment in local services should be supported through more formalised national working arrangements in relation to issues such as standards and quality of care, workforce planning, professional development and scrutiny and oversight – this may provide a role for a national body.
- The impact of this proposed structural change, alongside the ongoing lack of certainty around what this will mean on the ground, is highly disruptive for the local government workforce, which is unacceptable given the challenges which already exist. The scale of potential change and associated uncertainty over future arrangements has the potential to further unsettle existing workforces in both local government but also across commissioned partners and risks adding to the reason for people to leave rather than stay within the social care workforce over the long term, as well as inhibiting ongoing programmes to attract new entrants into a career in social care.
- The loss of accountability for the planning and delivery of care services at a local level is not supported – local care services should be designed to meet local needs, with holistic support being provided in conjunction with wider local authority services such as housing, advice and employability services amongst others – the proposals as set out in the limited detail they are, would risk breaking these critically important links.
- The proposed commissioning arrangements indicate that many years of progress to develop closer working with social care providers, national commissioning and expertise, made in particular by Scotland Excel over recent years in what is an increasingly complex market, is at risk of being unpicked, unwound and taking backwards steps that could be damaging for what is already a fragile market, particularly following the pandemic.
- It is suggested that the proposed costs for the National Care Service, as set out in the Financial Memorandum wholly underestimate the recurring investment required to deliver the services concerned, with no guarantee of improvement in outcomes – the

previous estimate provided via COSLA and professional groups suggest that the required investment to deliver the envisaged scale of improvement in outcomes is beyond £1 billion. Additionally, delivering the scale and complexity of structural change outlined will inevitably require significant financial investment both to implement the change but also to service the new national arrangements – both of which will arguably divert scarce resources from investment in front line services and delivering better outcomes.

- Additionally, the financial memorandum and wider proposals are broadly silent on a range of significant financial and legal issues such as VAT, treatment of assets, liabilities, pensions arrangements etc. Although technical in nature, such issues are complex and can present some very significant legal and financial considerations.

- 4.6 As the consultation response was submitted as a draft in order to meet the consultation response deadline of the Health, Social Care and Sport Committee, elected members are asked to homologate its submission.

5. Next steps

- 5.1 Council officers will continue to engage through professional organisations as the Bill progresses through the parliamentary process. Work is also continuing at a national level to develop workforce planning arrangements in relation to social care and social work, and around other improvement activities which will seek to improve the quality and consistency of care at local authority level.

Implications of the Report

1. **Financial** – The Bill, if implemented, could have a significant impact on the financial resources available to the Council, with funding flowing directly from Scottish Government to Community Health and Social Care boards. As set out in the Council's response to the consultation at Appendix 1, there is limited detail within the Bill and associated documentation to assess the potential implications for the Council.

2. **HR & Organisational Development** – If implemented, the Bill would have significant implications for the Council's workforce.

As set out in the Council's response to the consultation at Appendix 1, there is limited detail within the Bill and associated documentation to assess the potential implications for the Council.

3. **Community/Council Planning** – none

4. **Legal** – The Bill and its associated documentation indicate that an NCS would have significant governance implications for the Council. As set

out in the Council's response to the consultation at Appendix 1, there is limited detail within the Bill and associated documentation to assess the potential implications for the Council.

5. **Property/Assets** - As set out in the Council's response to the consultation at Appendix 1, there is limited detail within the Bill and associated documentation to assess the potential implications for the Council.
6. **Information Technology** – it is proposed as part of the establishment of a National Service that a single health and social care record would be created.
7. **Equality & Human Rights** –
 - (a) The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report. If required following implementation, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Council's website.
 - (b) The Bill includes a number of impact assessments within associated documentation that was published in June 2022. As set out in the Council's response to the consultation at Appendix 1, there is limited detail within the Bill and associated documentation to assess the potential equality implications.
8. **Health & Safety** - *None*
9. **Procurement** –The Council's draft response highlights concerns in relation to the development of new national commissioning arrangements through the establishment of an NCS, with little reference to the development and improvement that has been achieved through Scotland Excel.
10. **Risk** – As set out in the Council's response to the consultation at Appendix 1, there is limited detail within the Bill and associated documentation to assess the potential implications for the Council.
11. **Privacy Impact** – Not applicable
12. **COSLA Policy Position** – The Council's draft consultation response reflects the key points agreed by COSLA Leaders in August 2022.

List of Background Papers

(a) n/a

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**National Care Service Bill – draft consultation response subject to Council approval on 29
September 2022**

The overall position of Renfrewshire Council on the National Care Service Bill and its associated documentation, remains that which was submitted as part of the national consultation exercise in November 2021. For ease of reference:

Renfrewshire Council does not support proposals to create a National Care Service and to transfer accountability of adult social care from the local authority. There is no evidence that the structural changes proposed would deliver on the outcomes local people, carers and social care workers want to see change now. Like the NHS, social care services need to rebuild and recover from the response to the pandemic and focus on tackling widening inequalities and levels of harm across communities – this needs to be the primary focus of local health and social services and not the distraction and disruption of unnecessary structural reform.

Renfrewshire Council is disappointed that the national consultation focuses on structural integration as the only solution by which improvements to adult social care services can be made. Whilst there is support for the national co-ordination of particular aspects of social care such as assessment, eligibility criteria and workforce planning, more engagement is required with local partners on the options to improve outcomes at a local level. There is also no evidence base which supports the transfer of children and families, and justice social work to a national care service.

In terms of commenting on the Bill specifically, the lack of detail within the associated documents makes it impossible to meaningfully assess the proposals contained therein. The lack of detail suggests that the plan to develop the National Care Service is underdeveloped, and that the scale and complexity in terms of implementing this national model is not fully understood.

Given the number of service users, carers and employees potentially impacted by the establishment of the proposed new arrangements, and the significant proportion of the local authority budget that is used to fund these services, the proposed enabling primary legislation and use of secondary legislation to implement change is not appropriate. Full scrutiny of the detail of any proposed changes to governance, budgets and service delivery should be undertaken by the Scottish Parliament.

Following discussions through representative professional organisations such as COSLA, SOLACE, CIPFA, it is important to highlight the following high-level points:

- There remains a lack of evidence to support that a National Care Service as currently proposed will do anything to deliver better and improved outcomes for service users and carers. It is widely accepted and acknowledged that there are many aspects of social care where improvements and better outcomes can be achieved, however this position is reflective of a lack of investment and current systems, service levels and outcomes being achieved have been necessarily aligned to the existing resources levels that are widely recognised as been inadequate to support delivery of the shared outcomes and improvements envisaged for social care in Scotland.
- The structural change proposed is immensely complex and will take many years to implement and fully embed, and indeed has been promoted as the most significant change to the public sector in Scotland since the creation of the NHS. Consequently, it will

be highly disruptive and necessarily demand and consume very significant levels of expert resource and capacity across our social care and public sector systems. It is inevitable that during this period capacity and focus will be diverted from progressing the improvement agenda at pace, and indeed risks creating a long period of stagnation in terms of delivering improvement and better outcomes. It would be better for all partners to continue to work together to build on what has been achieved to date, particularly over the pandemic period, with new investment redirected to support improvements and reform through existing structural mechanisms.

- Additional investment in local services should be supported through more formalised national working arrangements in relation to issues such as standards and quality of care, workforce planning, professional development and scrutiny and oversight – this may provide a role for a national body.
- The impact of this proposed structural change, alongside the ongoing lack of certainty around what this will mean on the ground, is highly disruptive for the local government workforce, which is unacceptable given the challenges which already exist. The scale of potential change and associated uncertainty over future arrangements has the potential to further unsettle existing workforces in both local government but also across commissioned partners and risks adding to the reason for people to leave rather than stay within the social care workforce over the long term, as well as inhibiting ongoing programmes to attract new entrants into a career in social care.
- The loss of accountability for the planning and delivery of care services at a local level is not supported – local care services should be designed to meet local needs, with holistic support being provided in conjunction with wider local authority services such as housing, advice and employability services amongst others – the proposals as set out in the limited detail they are, would risk breaking these critically important links.
- The proposed commissioning arrangements indicate that many years of progress to develop closer working with social care providers, national commissioning and expertise, made in particular by Scotland Excel over recent years in what is an increasingly complex market, is at risk of being unpicked, unwound and taking backwards steps that could be damaging for what is already a fragile market, particularly following the pandemic.
- It is suggested that the proposed costs for the National Care Service, as set out in the Financial Memorandum wholly underestimate the recurring investment required to deliver the services concerned, with no guarantee of improvement in outcomes – the previous estimate provided via COSLA and professional groups suggest that the required investment to deliver the envisaged scale of improvement in outcomes is beyond £1 billion. Additionally, delivering the scale and complexity of structural change outlined will inevitably require significant financial investment both to implement the change but also to service the new national arrangements – both of which will arguably divert scarce resources from investment in front line services and delivering better outcomes.
- Additionally, the financial memorandum and wider proposals are broadly silent on a range of significant financial and legal issues such as VAT, treatment of assets, liabilities, pensions arrangements etc. Although technical in nature, such issues are complex and can present some very significant legal and financial considerations.

The Policy Memorandum accompanying the Bill describes its purpose as being “to improve the quality and consistency of social work and social care services in Scotland”. Will the Bill, as introduced, be successful in achieving this purpose? If not, why not?

As above, it is the position of Renfrewshire Council that structural reform through the establishment of a National Care Service is not required to improve the quality and consistency of social work and social care services in Scotland.

It remains the view that improved outcomes for people accessing social care across Scotland, can be achieved through significant additional investment in existing services, supported by national standards, enhanced training and development and investment in social work and social care employees, and more appropriate scrutiny of standards and practice through national improvement bodies. Improvements could be achieved much more quickly at a local level, without the significant diversion of focus, capacity and funding to deliver a national agency. Indeed local authorities and HSCPs, are already working in partnership with COSLA and other national bodies to progress at pace the development of the social work and social care workforce.

The Policy Memorandum does not provide any detail on how the quality and consistency of social work and social care services will be achieved in practice through a National Care Service, with the model of delivery yet to be developed through further engagement and research, and implemented through secondary legislation without the involvement of local government and with limited scrutiny within Parliament.

The policy intent of the National Care Service fails to recognise that national and arrangements delivered through the NHS do not and have not historically guaranteed improved quality and consistency across all areas of Scotland on a geographical basis, and there is no other material sources of evidence to that are drawn on to support that the creation of a national body will necessarily lead to or create the conditions to deliver better outcomes than investing in current service arrangements and structures.

The value of local government in the provision of care and social work across all care groups, is the improved outcomes that can be achieved with individuals and carers through person centred approaches. Support can be wrapped around a person – wider support beyond social care including income advice, employability services, housing and homelessness and parenting and family support. Removing care and social work services from the local authority role, will significantly impact on the ability of all partners working across all sectors in Renfrewshire, to take this holistic approach.

The provision of care is not homogenous – creative approaches and differences in service delivery should be welcomed at the local level, as long as the core needs of local service users and carers are met.

Keeping care local, supported by significant additional investment, would provide the best opportunity to deliver the improvements that service users and carers want to see now – as they told both the Feeley review and the National Care Service Consultation.

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?

*As per response to the previous question, the Council has previously responded to formal consultations on the establishment of a National Care Service and firmly stated that all social work and social care services (including children's and criminal justice social work) **should not** transfer to the National Care Service, and accountability for the delivery of these services, **should not** transfer to Scottish Ministers.*

Whilst the Feeley review reinforced that significant investment and improvements were required to deliver adult care services, it remains deeply disappointing that the only solution to these issues identified by the Scottish Government (and not by local authorities who deliver these services) was to deliver adult social care and social work through a National Care Service. This was the only model of delivery that the Scottish Government consulted on last year, the consultation structure was set out in a way which encouraged affirmative responses and therefore the Bill reflects a strategic direction of travel that sets out the very significant redrawing of social care arrangements in Scotland in the absence of any form of robust option appraisal or evidence based considerations of what is required to improve adult social care and social work services in Scotland.

A fundamental issue to note, is that the Bill and its associated policy memorandum, contain no information on how the National Care Service and care boards will work. It is therefore not possible to provide detailed commentary through this consultation as a local authority, and it is not clear what the implications will be for service users and carers, employees or indeed the local authority itself.

The complexity of the structural change proposed is not reflected within the detail of the policy memorandum. In addition to the significant legislative development process required to enact the powers and functions of the National Care Service and local care boards, there is very limited commentary on the financial implications for local authority assets and liabilities, employee terms and conditions including pay and pensions, VAT and other duties or for the ongoing sustainability of services and functions that will remain within the scope of local authority provision.

The lack of detail on the delivery of this proposed model creates additional uncertainty for the care sector, the care workforce and on service users and carers, at a time when all organisations that provide care and support are still dealing with the current and longer term impacts of COVID. This uncertainty risks undermining the work being progressed to support workforce retention and recruitment and indeed risks making the problem significantly worse if uncertainty encourages more to leave the caring profession or act as a disincentive for those to enter the profession. It is also disappointing that the NHS workforce has been given commitments in relation to terms and conditions that have not been provided for local authority staff. This inequity means that any employees transferred to a National Care Service will not all start on the same footing, which will not promote a positive workforce culture.

It is vital that some of the urgent recommendations flowing from the Feeley review are progressed quickly, without risk of being deprioritised as highly complex and resource intensive structural reform is progressed. This includes the development of the social work and social care workforce, attracting people to careers in these sectors, and improving standards and accessibility of care and support to service users and carers.

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

As outlined in the responses above, the Council does not support the establishment of a National Care Service or the potential option set out in the Bill for children and justice social work services to transfer these services into the NCS at a later date, subject to further consultation and engagement.

As highlighted in previous question responses, the lack of detail within the Policy Memorandum, Financial Memorandum and the Bill itself on the “how and “what” of the National Care Service and associated care boards is a significant issue, as it is unclear at this stage what the very specific implications are for local authority services, employees and budgets, and what the delivery of assessment and care services would look like on the ground.

It is deeply concerning that much of this detail will be implemented through secondary legislation with limited scrutiny at a Scottish Parliament level. Given the number of service users, carers and employees potentially impacted by the establishment of the proposed new arrangements, and the significant proportion of the local authority budget that is used to fund these services, it is inconceivable that a more comprehensive process of scrutiny and legislation development will not take place.

A particular issue to highlight as a concern, is that the Policy memorandum refers in several places to the development of care boards which will act as the local delivery arm of the National Care Service, and which may or may not be co-terminous with existing local authority boundaries. Service users and carers want to receive care and support at a local level, not at a regional or other determined level. Local services, buildings and centres have been funded and developed from local resources and are core facilities within communities. Local democratic accountability would also be diminished if care board boundaries were not co-terminous with that of the Council, and there would be dilution of local influence and input into the way in which representative organisations and community groups could be involved in planning and delivering services.

The provisions within the Bill surrounding the reserved right to participate in certain contracts also require greater clarity and explanation. As written, it is not explicitly clear whether Local Government would qualify under the reserved criteria and greater detail is required as to the tender process following the end of a contract secured under the reserved criteria.

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

It is disappointing that legislation of this magnitude is accompanied by a Financial Memorandum which lacks detail across all key financial considerations.

Investment in Scotland’s future care model needs to be set at an ambitious and realistic level to deliver on the commitments made to service users and carers around improvements in the quality and accessibility of care. The Financial Memorandum appears to set funding requirements based on existing levels of activity, with no commentary on investment in early intervention or preventative approaches.

As highlighted in previous responses, the lack of detail in terms of the impact on the social work and social care workforce is concerning for people working across local authorities, including support staff, for whom the implications are very unclear.

There is also no consideration of the statutory role of the Chief Social Work Officer within the documentation.

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?

As outlined in previous responses, the Council does not support the practice of using secondary legislation to implement structural change of this magnitude.

The Bill itself is very limited in terms of its content and provides very little detail on the way in which the National Care Service model will work.

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?

As highlighted within responses to previous questions, it is the position of the Council that the transfer of adult social care and social work services is not supported. The potential transfer of children's social work and justice services, and many other aspects of care and support, would also not be supported.

It is the view of the Council that these services need to be delivered through holistic, person centred approaches by local authorities at a community level. The focus of these local models should be on early intervention and prevention and working creatively and flexibly at a local level to tailor the supports that service users and carers need.

National approaches to workforce planning and standards, could be developed to enhance existing and strengthen local arrangements, which with additional investment, could achieve improved outcomes for service users and carers and support the development of the social work and social care workforce.

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?

It is impossible to provide informed commentary with regards financial implications given the lack of detail provided in the Bill and memorandums; other than it is reasonable to infer that the costs involved (both one off and ongoing) in setting up the NCS will vastly outweigh any potential efficiencies. In line with the Council's response to the National Care Service consultation in 2021, it is suggested that a better option would be to provide the funding identified directly to those organisations currently involved in delivering social care to address the severe underfunding which has been experienced over many years.

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?

Given the level of detail that is available on the National Care Service and how it will operate within the Bill and associated documentation, it is not possible to comment on impact assessments and whether these are appropriate. The impact on service users and carers and on the social work and social care workforce is a critical element of the development of the National Care Service and extensive consultation and engagement must inform these impact assessments, based on a full and complete picture of the model and how it will work.

There is likely to be merit in engaging with external auditors / organisations to undertake these assessments in an independent fashion. It is also suggested that full analysis and engagement on the impact of the proposed model, should be scrutinised by the Scottish Parliament in detail.

Financial Memorandum questions

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

The Council participated in the National Care consultation undertaken by the Scottish Government in 2021 and included initial commentary on various financial considerations.

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

n/a

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

n/a

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.

As mentioned above, there is a disappointing lack of detail or clarity with fundamental aspects of the potential financial implications of the proposals both in terms of new costs and risks; and costs and risks for local authorities.

It is impossible to tell from the information provided in the Bill and accompanying memorandums what the financial impact for councils may be. The FM at paragraph 53 commits to identifying financial implications for councils but in essence the proposals are being progressed with no assessment of the costs involved.

From the limited detail provided however, it is apparent that there will be significant costs in setting up the proposed NCS and severe demands will be placed on councils in terms of supporting the establishment of a national service. The management of staff transfers, budget agreement, assessment and agreement of assets and liabilities associated with services currently delivered by councils, data transfer and sharing - all of these issues will take significant resource to work through, potentially detracting from the quality of care being provided in the interim.

Simply collating the costs involved would be a very significant exercise in its own right; and these are not costs which councils could or should bear.

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

No. To reiterate, there is a fundamental lack of detail or confirmation as to key costs and financial issues which make it impossible to tell whether any of the limited cost information is reasonable – it is certainly not complete. The financial data presented in the Financial Memorandum is confusing in that it conflates actual costs with funding (Table 2), makes unfounded inflationary assumptions, lacks any detail as to how fixed assets and associated debt will be dealt with; and the cost projections for staff transfers (and associated pay/grading/T&Cs/pension issues) need substantial further work before they could be relied upon.

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?

As outlined above, it is impossible to tell at this point from the information in the documentation what the costs to councils may be. However, the costs involved should not and cannot be met from within existing council resource.

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?

The Financial Memorandum somewhat outlines a number of risks and areas where further work is required and makes vague commitments that further rigorous assessment and business cases will be developed. This is an unacceptable low level of due diligence given the scale of the potential costs and risks involved in the proposals. Examples are the VAT status of the new service which if care boards are not able to reclaim would immediately add (at least) tens of millions of cost annually which is not included in the costs within the financial memorandum. Nor are any costs associated with the major systems, data and records management aspirations outlined from para 57 onwards included in the set up costs – again there is the potential for very significant cost to emerge.

Fundamental questions with regards the financial governance of the new service remain unanswered – one has to assume for example that given the direct accountability to Scottish Ministers that the local authority accounting regime would not apply – immediately removing the ability to carry reserves from one year to another in order to maximise financial flexibility. Given the current reserve balances held by IJBs, it is unclear what the proposals for the management of these on the winding up of IJBs would be. Owing to the constraints placed on local government

over a long period and the obligation to pass funding allocated through the local government settlement to IJBs, much of this resource arguably should return to local government.

Questions on specific provisions

There is also the option to give your views on specific provisions in the Bill. There is no obligation to complete this section of the call for views and respondents can choose to restrict their comments to certain sections of the Bill.

In providing comments on specific sections of the Bill, 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?**