

To: Council

On: 30 September 2021

Report by: Chief Executive

Heading: National Care Service Consultation

1. Summary

- 1.1 In March 2021, Council considered the initial findings of the Independent Review of Adult Social Care which was led by Derek Feeley during Winter 2020. The recommendations of the independent review were recognised at that time as having potentially very significant implications for the delivery of adult social care, particularly in relation to the proposed development of a National Care Service whereby the accountability for these services would transfer from local authorities to a national body accountable to Scottish Ministers.
- 1.2 In August 2021, Scottish Government launched a consultation on the establishment of a National Care Service in Scotland. Whilst the consultation seeks views on a number of other aspects of improvement to the delivery of social care services, it specifically focuses on the role and scope of the proposed National Care Service.
- 1.3 Elected members are asked to note that the proposed scope of the National Care Service set out within the consultation, exceeds that recommended initially within the Feeley review, and it is proposed that services such as children and families and criminal justice social work are included within a National Care Service, with adult social care services included as a minimum.
- 1.4 Whilst there a range of proposals within the consultation that are focused on improving outcomes and support for service users and carers, it is important to highlight to elected members that the structural changes being proposed to manage the delivery of social care are significant for the Council. Many of the proposals outlined within the paper will need to be implemented or enabled

through new or significant changes to existing legislation, and the governance, financial and workforce implications for the organisation would be substantial. A range of professional organisations including SOLACE, SOLAR and CIPFA are currently considering the implications of the proposed changes and will respond to the consultation in due course.

- 1.5 A response outlining the view of the Council to the consultation is attached as Appendix 1 for consideration by elected members. Subject to approval, the response will be submitted to the Scottish Government by the deadline of 2 November 2021.
- 1.6 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:
 - Approve the response to the National Care Service consultation for submission by 2 November 2021.

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. These included recommendations that:
 - The accountability for social care support should move from local authorities to Scottish Ministers, and that a Minister should be appointed with specific responsibility for Social Care.

- A national care service with its own board should be created and Integration Joint Boards should be reformed and operate as “local delivery agencies” of the new National Care Service.
- Local authorities should no longer be responsible for commissioning and procuring adult social care support but could continue to provide social care services procured by reformed Integration Joint Boards.
- Integration Joint Boards should be directly funded by Scottish Government, and local authorities would no longer be involved in decision making in relation to the allocation of funding to adult social care. The National Care Service would be responsible for distribution of resources based on a new funding methodology.
- Access to social care support would be made easier with the potential removal of eligibility criteria and aspects of charging.

3.4 The paper to Council highlighted that the review did not make it clear as to whether the Council would have a role in the delivery of adult social care services going forward as a commissioned service provider (although this is identified as a possibility), or whether services would be required to be transferred formally to the reformed Integration Joint Boards. The report noted the significant financial, risk, legal, procurement and staffing issues which would arise in relation to either scenario.

4. National Care Service consultation

- 4.1 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. The establishment of a national care service is a key element of the 2021 Programme for Government which was published by the Scottish Government in early September 2021. Within the Programme for Government, it is noted that a legislative bill to establish the National Care Service, will be laid in the Scottish Parliament before the end of this year, with a view to the National Care Service being established by the end of the current parliamentary term in 2026.
- 4.2 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 deadline for consultation responses is 2 November 2021.
- 4.3 This is the single model of service delivery for adult social care which is being consulted on at present, and it is important for elected members to note that the scope of the proposed national care service under consideration goes significantly beyond the recommendations of the Independent Review of Adult Social Care with children’s social work and criminal justice services also being considered for inclusion.

- 4.4 The consultation document includes a number of wider proposals to improve the delivery services, including in relation to social care assessments, eligibility criteria, support for carers, and charging mechanisms. The consultation also seeks views on proposals to improve the support and professional development of the social care workforce, with a key aim of ensuring that the vital role that frontline staff have in supporting vulnerable people is recognised and valued across society.
- 4.5 In summary, there are a number of key points within the consultation document which elected members are asked to note:

National Care Service

- It is proposed that a National Care Service is established which will have the responsibility for the delivery of adult social care services as a minimum, but should be extended to include other services areas such as children and families social work and criminal justice social work. A Getting It Right for Everyone approach is recommended to deliver cohesive services and supports to services users and carers.
- Accountability for the delivery of social care services would transfer from local authorities to Scottish Ministers.
- Integration Joint Boards would be reformed into Community Health and Social Care Boards, which would act as the local delivery mechanism for services on behalf of the National Care Service. It is anticipated that these would be in line with current local authority boundaries and would commission and procure all services required.
- Funding to support the delivery of social care would flow directly through the National Care Service to Community Health and Social Care Boards. Each board would appoint a Chief Executive and required staff to plan and deliver all services, and would report to the Chief Executive of the National Care Service.
- It is proposed that elected members continue as members on the new boards, with the membership extended further to include greater representation of service users and carers.
- The duties and responsibilities for “social work” would also be located within a national care service, and professional standards, qualifications and development would be supported through the creation of a new National Social Work Agency.

Improving Care for people

- Eligibility criteria in their current form will be removed, ensuring that people can receive the support and care they need when they need it.
- Prevention and early intervention will be prioritised within the model, supported by a single assessment and planning process.
- The consultation considers options to make sure carers have a right to breaks from caring, balancing the need for longer term intensive support for some carers with preventative support for others.

- Changes are proposed to current charging arrangements for the provision of residential care.

Commissioning of services

- The consultation proposes that all social care commissioning and procurement will be managed through a national approach, with greater focus on the achievement of outcomes.

Regulation and scrutiny

- The consultation recognises that scrutiny, inspection and regulation of care services and the workforce should be undertaken independently of the national care service and seeks views on how this should work in the future and the role that the Care Inspectorate, Health Improvement Scotland should have.

- 4.6 The full consultation documents can be accessed by elected members through the following link:- [A National Care Service for Scotland: consultation - gov.scot \(www.gov.scot\)](http://www.gov.scot).
- 4.7 The proposals within the consultation document have significant implications for the delivery of social care services in Renfrewshire going forward and for the nature of the care and support that local people receive. It is clear that many of the proposals being consulted upon will require significant legislative change to enable these to be implemented, and the financial, governance and workforce implications of the proposed changes are substantial. Professional organisations and groups such as SOLACE, SOLAR, CIPFA and Chief Officer and Chief Social Work Officers will also provide technical views on the changes being proposed.
- 4.8 Renfrewshire Council's response to the National Care Service is attached as Appendix 1 to this report for the consideration of elected members. This provides a high level response to the consultation document, and sets out a number of more detailed points in relation to specific proposals included within the consultation document.
- 4.8 Subject to approval by Council, the response will be submitted to the Scottish Government ahead of the deadline set of 2 November 2021.

Implications of the Report

1. **Financial** – The recommendations set out in consultation, 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. It is also

unclear whether services would continue to be provided by the Council through some form of commissioning arrangement.

2. **HR & Organisational Development** – If implemented, the recommendations within the consultation could have significant implications for the Council’s workforce, and there is no clarity at present on the service delivery role that a Council may have or whether staff would be required to transfer to the new governance arrangements.
3. **Community/Council Planning** – The recommendations within the independent review and the consultation advocate for greater engagement with local people and communities in relation to the provision of care.
4. **Legal** - The report recommends that new legislation should be enacted to reform Integration Joint Boards. The new Community Health and Social Care Boards would then have responsibility for procuring health and social care support locally, funded directly by the Scottish Government.

If implemented, local authorities would no longer have an active role in making decisions in relation to the allocation of adult social care funding, however elected members would still be represented on local Community Health and Social Care Boards. This could create a conflict of interest if the Community Health and Social Care Board chooses to commission services from the Council.

5. **Property/Assets** - *None*
6. **Information Technology** - *None*
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 independent review report and its recommendations identify the need to shift adult social care provision to a rights based approach where barriers to access are reduced and fairness and equity are established in approach.
8. **Health & Safety** - *None*
9. **Procurement** –The recommendations set out within the consultation are likely to have a significant impact on the procurement of social care support in the future with a shift to an outcomes focused through a national managed approach
10. **Risk** – If implemented there are potentially significant risks to the Council in terms of finance, HR, procurement and governance.
11. **Privacy Impact** – Not applicable
12. **COSLA Policy Position** – COSLA Leaders noted significant concern with the nature and scope of the consultation proposals and have engaged with Scottish Government in relation to these concerns.
-

List of Background Papers

- (a) n/a
-

Author **Laura McIntyre, Head of Policy and Commissioning**

National Care Service Consultation

Renfrewshire Council welcomes the opportunity to respond to the National Care Service consultation. The proposals outlined within the consultation document are complex and significant for people living across Renfrewshire, and therefore the Council has chosen to submit a response which covers all key issues and points which require to be addressed through this consultation exercise, rather than responding to the consultation questions alone.

The first section of the response below provides an overview of the Council's response to the key proposals contained within the consultation, with specific commentary provided within further sub-sections below.

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.

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, and it is very concerning that the proposed scope of the National Care Service has been widened without prior engagement with local authorities.

Social care and social work are statutory functions of a local authority and should remain so. Services should be designed and delivered as close as possible to the people that use them, with local democratic accountability ensuring that high quality services are provided and that resources are targeted in the most flexible and effective way to meet the needs of local people.

Additional investment in the delivery of adult social care services, could achieve significant improvements very quickly, if supported by national approaches to assessment, eligibility criteria and workforce planning and development.

Key points of Renfrewshire Council's response:

The independent review of adult social care undertaken by Derek Feeley and published in February 2021, represents a significant opportunity to build on the strengths of the existing adult social care system in Renfrewshire and across Scotland.

The opportunity to improve adult health and social care services must not be missed, and the critical role that these services play across communities needs to be recognised and valued.

Staff working across all care services have demonstrated unwavering commitment and professionalism during the pandemic, ensuring that lifeline care and support was delivered. Adult health and social care services remain under significant pressure, and as with health services provided across acute and primary care settings, all of our focus must now be on rebuilding the capacity of these services and supporting our staff, service users and carers to recover from impact of the pandemic.

The reform of adult social care proposed within this consultation document will detract effort and focus from the recovery of these services, and to date no evidence has been provided that the National Care Service model will achieve the core outcomes that service users and carers and social care staff told the Feeley review they wanted to see:

CHOICE – FLEXIBILITY – QUALITY

It is disappointing that rather than consulting on how these outcomes can be achieved, a national consultation has been launched on one proposed solution. By focusing on structural change, there is a significant risk that change will not be delivered quickly or in the way that those who responded to the Feeley review consultation want to see. The development of the National Care Service is likely to shift the focus away from improving services and outcomes, to delivering on significant governance and legislative change which could take many years to progress. People who use services and their carers want to see improvements now.

The consultation notes that health and social care integration has not delivered the scale of change required. Partners have spent 6 years implementing complex governance and financial arrangements required to support integration, and given the maturity of these relationships now, are better placed than ever to deliver the improvements to the adult social care system identified within the Feeley review. The resilience that local health boards, local authorities and integration authorities gain from working together was evidenced strongly during the pandemic, and should be seen as a strength to build improvement from.

Further structural integration is not required to implement some of the core recommendations made within the Feeley review: - these can be delivered through existing arrangements if supported by significant additional investment. Within the Feeley review it is estimated that further funding of over £600m is required, however this is likely to be a significant under-estimation given the proposals to remove eligibility criteria and charging from the provision of services. This is recognised in a recent briefing produced by the Fraser of Allander Institute which noted “ an underfunded national care service is unlikely to any better than system it seeks to replace” .

Supported by this additional investment, integration authorities could focus more extensively on improvement, learning and collaboration. Council agrees that some of the proposals within the consultation could be successfully progressed at a national level including: -

- Nationally agreed service criteria and assessments
- National workforce development arrangements
- National frameworks in relation to self directed support and support for carers
- National changes to strengthen scrutiny, inspection and learning

This national programme of improvement could be formalised through a formal agreement or concordat, with partners agreeing to deliver on specific outcomes agreed between the Scottish Government, health boards and local authorities.

Given the scale of governance change required, it is vital that engagement with professional organisations such as SOLAR, SOLACE and CIPFA is undertaken to understand the implications of the proposed National Care Service. There are significant governance and legislative implications for almost all proposals set out within the consultation.

Further engagement should also be undertaken in relation to the commissioning role of the National Care Service. The consultation document does not specifically refer to Scotland Excel and the range of national frameworks and contracts that are developed and managed by the organisation on behalf of local authorities. The skills and market knowledge that Scotland Excel offers should be recognised and there is little consideration given to the complexity of the social care market, with thousands of providers across Scotland being commissioned to deliver services every year.

A fundamental issue is that the consultation does not fully recognise the difference between social work and social care functions, and that support and protection may be required through a statutory rather than a voluntary basis. The statutory role of the Chief Social Work officer is not considered at all within the document which is a significant concern, given the vital role that this officer fulfils at local authority level, driving improvement in practice and as the main conduit for professional decision making.

It is right that the role of social care is recognised and valued, however the role of the professional social work service must be considered more fully within the context of these proposals.

In terms of final remarks, Renfrewshire Council believes that this consultation process must fundamentally consider what will be lost through the creation of a National Care Service and new reformed Health and Social Care Boards, as well as what some feel may be gained.

Local democratic accountability is a vital to the provision of adult social care, as it ensures that local resources are directed to meet the needs of local people and that standards and quality of service are high. This was never more important than during the pandemic, with local authorities bringing all partners together to provide support to service users and families. Early intervention and prevention starts within local communities, with local groups and organisations often being trusted and bets placed to support people with lower level needs. Local authorities play a critical role in ensuring all of the resources available within a community can be brought together to support service users and carers.

2. Improving quality

It is vital that people who use social care services are able to access high quality support. Whilst national standards, criteria and assessments could create greater consistency across Scotland, it will not prevent service users from experiencing significant variation in quality of care. There are thousands of social care providers, including local authorities, across Scotland. All operate with different service models and support different needs.

Whilst improved commissioning arrangements, regulation and scrutiny may improve this to some extent, service users will invariably have different experiences in terms of quality of care, and local

flexibility and oversight of these arrangements is vital to ensuring people are being supported appropriately.

A national improvement programme would be welcome to support Health and Social Care Partnerships and wider partners, to drive improvements at a local level by sharing learning and improving practice.

Prior to integration, this support was provided through the Joint Improvement Team, with programmes such as the Reshaping Care for Older People programme in place to support learning and collaboration across adult care services. National improvement support following integration has been limited.

2. Access to care and support

Social care services are not universal services, and are accessed through a shared assessment which has been jointly developed between health and social partners. In Renfrewshire, these assessments are outcomes based and undertaken in line with existing national policy in relation to self-directed support. The focus on outcomes and self directed support has been a journey for health and social care partners both pre and post integration, with further progress to be made to fully embed this approach locally.

Many of the frustrations that were expressed during the Feeley review are linked to the resources available to support people at a local level. Difficult decisions have required to be made around eligibility and the way in which services are provided to ensure those with highest level of need receive support and remain safe in their homes or other care settings. Those decisions will still have to be taken by the new CHCBs proposed unless services are fully funded to meet local needs.

In addition, service users and carers can also experience inflexibility in terms of the health services which form part of their care plan. There is no evidence within the Feeley review or the consultation document, that this issue would be addressed through the national care service.

It is agreed that a review of eligibility criteria should be undertaken, with potential to develop national standards and criteria that could be implemented by existing integration authorities. The Council is strongly supportive of improvement work that could support a greater shift towards early intervention. These types of approaches are being developed in Renfrewshire, with very well developed partnership working in place through the Strategic Planning Group to progress specific programmes of work around early years, social isolation and mental health and wellbeing amongst others.

The human rights based approach set out within the consultation document is also welcomed and it is agreed that we should be ambitious about access to services in order to meet a range of needs. However, it is important that proposals in terms of access and eligibility are achievable in practice in order that further frustration and disappointment is not created for local people and carers, if expectations cant be met within the resources available.

Recognising that lower levels of support can be provided within local communities by other groups and organisations, tests of change have been supported through funding from the HSCP. Additional funding could accelerate the progress of this local work.

The consultation also fails to recognise that care and support is not always provided on a voluntary basis, and that statutory intervention undertaken by registered social workers and mental health officers is also a vital component of keeping people safe and well.

The consultation refers to a new approach “ Getting it Right for Everyone” – whereby integration of a wider range of services would support people and families throughout all stages of life. The concept of Getting it Right for Everyone is supported, however there is real concern that transferring the accountability for adult, children’s and criminal justice social work to the new CHCBs will break the vital link that statutory services such as schools, advice and housing services have in supporting individuals and families.

4. Using data to improve outcomes

The Council supports proposals to improve the sharing of information and data as part of assessment and care management arrangements. Sharing data at an aggregate level on outcomes, service requirements and need could be useful in supporting service improvement, and the development of shared information systems would be supported. The consultation does not make it clear how this would be tackled given the variety of different systems that are in place across the country in respect of health and social care services, and it is likely that this would be an extremely lengthy and costly process to achieve at a national level.

Progress in terms of developing shared systems and sharing information has been very challenging over the last decade, with many different views across partner organisations around what is appropriate to share. This is because the sharing of information relates to individual information rather than data, which should only be shared where it is appropriate to do so. Primary legislation would be required to support national data sharing arrangements to operate most effectively.

5. Workforce

Local authority and partner organisation staff working across social care services have been at the heart and on the frontline of the local and national response to the pandemic, ensuring that people and their families receive the care and protection they need in unprecedented circumstances. Council agrees with the consultation that it is vital that the social care workforce is recognised and valued for the contribution that they make to society and to the lives of individuals.

There are high levels of staff turnover and vacancies across many social care roles across all sectors, and the proposed work at a national level to review levels of pay, role standardisation and improved support for workforce training and practice, would be welcomed. This is a key area of collaboration that could be progressed through a national improvement programme, which if prioritised could deliver improved outcomes for the social care workforce much more quickly and sustainably than the proposed national care service.

There is no detail provided in the consultation in relation to the role that a National Care Service would play in terms of addressing workforce challenges. It is important to note that there are examples of national workforce agreements in place across other aspects of public service which do not require to be implemented through a national agency or service eg teachers.

6. National care service / structural change

The Feeley review stated the strong belief that current structures have not fully delivered the improvements intended to be achieved by integration of health and social care and recommended the creation of a National Care Service, with Scottish Ministers being accountable for adult social care support.

At local levels, partners have worked together to implement the complex governance and financial arrangements that underpin integration authorities, including workforce development, management arrangements and planning arrangements. This has been exceptionally challenging and it is recognised that more needs to be done to maximise the potential value of integration and to improve outcomes for people that need to use adult social care services.

It is disappointing that rather than focusing on the actions that can be taken at both a local and national level to improve quality, choice and accessibility, that the proposed solution to improving adult social care rests on further structural integration.

As set out in the overview section of this response, this Council believes that any improvements to adult social care must focus on delivering the outcomes that service users, carers and the social care workforce want to see and not on structural integration. Given the pandemic and the impact on local people and communities, it is more important than ever that partners work at a local levels to make sure people receive the support they need, ensuring that the resources of all partners and sectors are maximised to achieve this. Further structural change will slow this process down, and again take the focus away from people who use social care services.

It must be recognised that structural changes to the delivery of services do not guarantee improvement. Often the decision to change structures results in a deterioration of service quality for a period due to the uncertainty it causes. This cannot be allowed to happen at a time when COVID recovery needs to be the top priority.

Within the Feeley review and the national care service consultation, no alternative options for improving adult social care are provided. A national care service is determined to be the sole option under consideration. There is therefore a missed opportunity to build on the strength of existing partnership and governance arrangements through COVID recovery plans and to implement:

- **Nationally agreed service criteria and assessments**
- **National workforce development arrangements**
- **National frameworks in relation to self directed support and support for carers**
- **National changes to strengthen scrutiny, inspection and learning**

There is also an opportunity at NHS board level, for integration authorities to work closer together to progress data and information sharing agreements and joint commissioning or service provision options. The maturity of the relationships which now exists between Health boards, local authorities and HSCPs is such that these opportunities could be progressed if improvement support was co-ordinated by Scottish Government. A national programme could deliver the outcomes and change required, potentially through some type of formal agreement or concordat. The allocation of funding to deliver on the aspirations and improvements required to the social care system, will be fundamental, whether this is achieved through a national care service or a national improvement programme.

The delivery of social care support is currently the statutory responsibility of local government under the 1968 Social Work (Scotland) Act. The provision of social care works best when it is delivered as part of a wider system of support that can be provided through local authorities and partner organisations, and there a range of different programmes of work that we are progressing in Renfrewshire, such as through our Alcohol and Drugs Programme, which seek to wrap this support around local people, families and carers.

Proposed Scope

The proposals within the consultation, suggest that a range of additional local authority services should be formally transferred to the new Community Health and Social Care boards, with full accountability on the provision of these services to Ministers. Some of the services listed within the consultation document such as alcohol and drug services and mental health services are already delegated to integration authorities, therefore it is unclear why these are being identified within the consultation.

The proposed transfer of children and families and criminal justice to the national care service is not supported by the Council. The Getting it Right for everyone approach and aim to ensure services are joined up and easy to access for children and families is supported, however formally transferring accountability for these services will fracture the link between schools, social work and families and with wider services to support people experience issues in relation to poverty, inequality, housing and homelessness etc. This is a significant concern in light of the pandemic and it is absolutely vital schools and social work services work as closely as possible with partners to support vulnerable families.

The failure to consult on the proposed additional scope of the National Care Service is a concern. There is no evidence provided that the transfer of children and family and criminal justice social work would improve public protection or reduce the rate of re-offending. These types of outcomes should be the driver for any improvements made to services and the way they are delivered, and it is suggested that the inclusion of children and family social work would in particular undermine the vital work being undertaken to raise attainment, tackle inequality and reduce child poverty levels.

At a local and national level, good progress is being made to respond to The Promise, and it would be concerning if the National Care Service and its proposed scope, impacted negatively on the progress being achieved.

In terms of wider policy implications, local authorities have increasingly been focusing on strengthening mechanisms and opportunities for engagement and collaboration with local partners and communities, in response to for example the recommendations of the Christie Commission, recent community empowerment legislation and new policy developments such as 20 minute neighbourhoods. The pandemic has proven that integration at a local level can provide some of the most successful solutions for communities. The move to establish a national care service is in direct opposition to the principles of localism.

7. Governance

Under the proposals set out within the consultation, accountability for the delivery of adult and potential wider aspects of social care would transfer to a national care service. This is the most

significant reform of public services proposed in many years, representing a significant loss of influence at a local level as to how social care is delivered to meet the needs of local people.

IJBs would be reformed into Community Health and Social Care Boards, which would act as local delivery mechanisms for the national care service. A Chief Executive would be appointed for each CHSC Board, with the postholder reporting to the Chief Executive of the National Care service, with accountability to Ministers.

In operational terms, it is inconceivable that the Chief Executive will be able to provide strategic leadership and support to the 32 Chief Executive's of the CHSCBs, and this would therefore greatly limit the ability of the national care service to ensure consistent standards of quality and practice across all CHCBs and services being provided. Local resilience and flexibility to respond would be fractured by the proposed governance arrangements. The resilience that local health boards, local authorities and integration authorities gain from working together was evidenced strongly during the pandemic, and should be seen as a strength to build improvement from, rather than seeing integration as having achieved limited progress.

In terms of democratic accountability, the consultation indicates that elected members would sit on CHCBs but does not provide sufficient detail on the proposed level of representation within a new board with an expanded membership. Whilst the inclusion of greater service user and carer representation within board arrangements is vital, there is also potential for significant erosion of local democratic accountability. The consultation also does not specify whether the Council would retain the right to appoint a Chair to the Board every two years.

Provision of services by the Council

If the legislation removes the statutory role of the council in the provision of social work services as is proposed within the consultation, the Council will no longer have the ability to employ staff to provide those services. Sec 64 of the Local Government (Scotland) Act 1973 only allows the Council to appoint such officers as they think necessary for the proper discharge by the authority of their functions. Unless the legislation allows it, the Council cannot employ staff to offer to undertake work which isn't within one of the council's statutory functions.

At various points in both the Feeley review and the consultation document, there is a specific lack of detail on what the role of government will be going forward. At points there is an inference that local government will have no specific role, which raises the assumption that under a new national care service, all employee and financial resources will transfer to the new CHSC Board. In other sections, there is a different position, with a suggestion that CHSC Boards may wish to commission care services from local authorities, who would then become a contracted supplier or provider of a service.

There is a fundamental lack of clarity on these issues within the consultation document which requires to be addressed, given the significant financial and organisational risks which these models would introduce for local authorities.

The consultation document does not address the role of the Chief Social Work Officer (CSWO). The oversight in terms of professional leadership and governance is a key responsibility of the CSWO. At present the CSWO has direct access to the Chief Executive of the local authority and senior elected members as well as to the Chief Officer in the health and social care partnership. The role of CSWO is also a statutory requirement for local government and is a designated proper

officer. The consultation being silent on this role raises questions on the overall governance and leadership of the national care service.

8. Financial implications

The consultation proposes that accountability and resources to deliver adult social care are transferred to the new CHSC Boards. This would represent a transfer of a very significant levels of local government funding, and would involve a very complex process to agree the quantum of funding to be transferred including consideration of TUPE, asset ownership, pension liabilities, VAT issues etc.

The current system has adapted to fit the resources that have been made available to deliver social care services, and is underpinned by assessment and the application of eligibility criteria. Within the Feeley review it is estimated that additional investment of in excess of £600m would be required to meet what is termed as “unmet need”, based on the current range of service offerings. Under the National Care Service proposals, Health and Social Care Partnerships would not have the opportunity to improve service provision and outcomes in light of the significant additional investment that is being proposed in the system. Changes to eligibility and charges, even if nationally directed, could be delivered through current arrangements.

It is important that proposals in terms of access and eligibility are achievable in practice in order that further frustration and disappointment is not created for local people and carers, if this can't be delivered within the resources available.

9. Commissioning

The consultation notes that a shift in commissioning and procurement practice is required across Scotland to support more outcome focused delivery of service and collaboration with suppliers across sectors. Good progress has been made in terms of social care procurement at both a national and local level in recent years, with an increasing focus on service quality and outcomes being delivered through commissioning arrangements, and on the achievement of shared objectives such as the provision of fair work across the social care workforce.

Through Scotland Excel, a range of national contracts and frameworks have been established which secure better outcomes and better value for local residents. The consultation document does not specifically refer to Scotland Excel and the range of national frameworks and contracts that are developed and managed by the organisation on behalf of local authorities. The skills and market knowledge that Scotland Excel offers is not mentioned at all within the consultation and there is little consideration given to the complexity of the social care market, with thousands of providers across Scotland being commissioned to deliver services every year.

The consultation indicates that the national care service would be responsible for the commissioning, procurement and contract management for the most complex services, which in addition to duplicating the role of Scotland Excel, would also lead to a loss of specialist

procurement knowledge and expertise within local authorities to take on roles within the national care service.

10. Regulation and scrutiny

Council agrees that the scrutiny, inspection, and regulation of care services and the workforce should continue be undertaken independently of local authorities and integration authorities, and that these arrangements need to be strengthened to support greater improvement and increased standards of care across local communities.

During the pandemic local authorities and HSCPs have worked very closely with the Care Inspectorate to ensure local people received high levels of care and protection within care settings, and have provided additional support to support providers to make improvements required by the Care Inspectorate. The legal powers of the Care Inspectorate can at times be constrained in terms of taking appropriate enforcement action, and it is important that these powers are reviewed as part of any proposed regulatory reform.