

To: Council

On: 4 March 2021

Report by: Chief Executive

Heading: Independent Review of Adult Social Care in Scotland

1. Summary

- 1.1 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 expedited in order that key findings could be published in early 2021.
- 1.2 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.
- 1.3 Following a process of engagement and consultation, the final report from the independent review was published on 3 February 2021. This report to Council provides an overview of the findings of the independent review of adult social care in Scotland which was undertaken between September 2020 and January 2021. The full report can be accessed on the [Scottish Government website](#).
- 1.4 A fundamental proposition within the independent review and report, is that the country needs to recognise and value the critical role that social care plays within society. The report identifies social care support as being an investment in citizens and the economy itself, and that there needs to be a greater shift to a model of care which is more consistent and fair, which enables and promotes the rights and capabilities of individuals, and that there is an inherent right to services rather than assessment for services in line with eligibility criteria. A strong, skilled and valued workforce are

recognised as being key to achieving these ambitions, with the system being funded to deliver the improvements required.

- 1.5 The recommendations within the report have significant implications for the provision of adult social care across Scotland and for the role of local authorities, with fundamental changes proposed to achieve the new vision for adult social care going forward. Key changes proposed include:
- The accountability for social care support should move from local government to Scottish Ministers, and that a Minister should be appointed with specific responsibility for Social Care.
 - The creation of a National Care Service with its own board. Integration Joint Boards would be reformed and operate as “local delivery agencies” of the new National Care Service. The report identifies that a National Care Service is needed to achieve consistency, drive national improvements, ensure strategic integration with the National Health Service, set national standards, terms and conditions, and to bring national oversight/accountability. The National Care Service will bring together everyone with a role to play in planning and providing social care support to achieve a common purpose.
 - 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 to 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. The report also highlights that a further investment of over £600m is required to support the required improvements in the system.
 - A shift from competitive to collaborative commissioning with alternatives to competitive tendering developed and less focus on time and task based commissioning of services from social care providers.
 - The requirement to undertake a radical overhaul of the National Care Home Contract, with the care home sector becoming an actively managed market with a revised and reformed National Care Home Contract in place, and with the Care Inspectorate taking on a market oversight role.
- 1.6 As outlined above the review does 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 required to be transferred formally to Integration Joint Boards. There are significant financial, risk, legal, procurement and staffing issues in relation to either scenario.
- 1.7 Finally, it should be noted that the review was intended to focus on adult social care, however there are several recommendations which relate to the provision of social work services. The report does not specifically address the role of the Chief Social Work Officer going forward, or set out how statutory

functions relating to mental health and adult protection would be managed in light of the system wide changes proposed. Further clarity is required in relation to these issues as well on the potential impact of the proposed governance changes on the provision of criminal justice and children's social work services, which are not delegated to the Integration Joint Board in Renfrewshire.

- 1.8 The recommendations outlined within the independent review report were debated in the Scottish Parliament on 16th February 2021, with further detail anticipated on any next steps to be undertaken by the Scottish Government in response to the review. It is clear from the scope of the recommendations that these will require significant further engagement with local authorities, Integration Joint Boards, NHS Boards, social care providers and representative organisations and importantly people that use adult social care services across Scotland. Changes to existing legislation will also be required to enact any changes.

2. Recommendations

- 2.1 Council is asked to:
- Note the contents of the independent review report and its recommendations as these relate to Renfrewshire; and
 - Note that further updates will be provided to elected members as further information becomes available on the Scottish Government's response to this independent review and its recommendations.

3. Background

- 3.1 On 1 September 2020, the First Minister announced that there would be an Independent Review of Adult Social Care in Scotland as part of the Programme for Government. The review was chaired by Derek Feeley, a former Scottish Government Director General for Health and Social Care and Chief Executive of NHS Scotland. Mr Feeley was supported by an Advisory Panel of Scottish and international experts.
- 3.2 The principal aim of the review was to recommend improvements to adult social care in Scotland. This was primarily in terms of the outcomes achieved by and with people who use services, their carers and families, and the experience of people who work in adult social care. The review concluded at the end of January 2021 and was published on 3 February 2021.
- 3.3 As part of the review an extensive programme of engagement was carried out to inform the proposals for reforming social care and the following key themes emerged:

The report notes:

Access, eligibility and assessment – The process to access social care was described as ‘notoriously difficult’, ‘over-complicated’ and ‘bureaucratic’. The eligibility criteria were described as one of the main barriers to accessing social care and that the threshold for accessing support is too high, and meaningful support is only available when people are acutely unwell or in crisis. In order to improve, social care needs to focus on holistic wellbeing and personal outcomes. It should be flexible so that it can adapt to changing needs and wishes.

Structure and design of services – Integration Joint Boards have had benefits in terms of health and social care support services working together better locally, but in many instances people need to be much more directly involved in planning their own care, and in decisions about local priorities. National and local service must also work better together. The important role that technology can have on people but not as a replacement for support.

Planning, commissioning and procurement – Strategies were described as good the however, implementation was lacking. There was felt to be too much focus on costs rather than high quality, person-centred care and support. There should be a bigger role for communities and third sector organisations.

Workforce – The social care workforce was described as ‘motivated’, ‘resilient’, ‘adaptable’ and ‘proud of their work’. However, serious concerns were also noted including: feeling under-valued and underpaid, and a lack of support and training opportunities.

Unpaid carers – expressed that they feel undervalued by society and that accessing support was complex, time consuming and frustrating.

Registration, regulation and inspection – mixed views were expressed on current arrangements for regulation and inspection of social care support services, illustrated with observations including, Care Inspectorate inspections being based on dialogue and improvement, whilst too much attention is paid to procedural and process issues. It was also observed that the Scottish Social Services Council is not equipped or resourced to support effective training and development of staff.

Equality – people who use services described being expected to pay to access their human rights to carry out normal day-to-day activities (such as, washing and getting dressed, and going to work). Other equality issues highlighted included: gender unfairness; the needs, rights and preferences of people from minority ethnic communities are often overlooked; that communication support for people with sensory impairments and learning disabilities is often inadequate; and that the stigma sometimes attached to accessing supports for mental health problems, addictions and criminal justice issues should be addressed. Lastly, the report highlighted the need for advocacy services to be improved.

National Care Service – There were a wide range of views about what a National Care Service should represent. It was widely felt that social care services should not be run for profit. Charges, if any, should be fairer and the same in different Local Authority areas. It was also felt that assessments and care packages should be portable between Local Authority areas, and the workforce should be better supported with effective planning, training and support arrangements – consistently managed at national level.

4. Key findings and recommendations

4.1 At the centre of the remit for this review was a request to recommend improvements to adult social care support in Scotland. The review recommends that there are three key things which must be changed to secure better outcomes: Shifting the paradigm, Strengthening the foundations and Redesigning the system.

4.1.1 Shifting the paradigm

- There is a need to challenge some of the prevailing narrative about social care support.
- Social care support should be seen as an investment in our economy and in our citizens.
- It should be underpinned by a human rights-based approach.
- The table below identified the necessary changes required:

4.1.2 Strengthening the Foundations

- There are many strengths in the Scottish system of social care support and these must be built upon - including self-directed support, the Independent Living Fund and integration of health and social care.
- A step change in the capability of the system is required along with the adoption of science based improvement methods.
- The National Care Service must learn from success and failure – to solve problems when they are identified and to scale-up and spread promising practice much more effectively.
- The workforce should also be nurtured and strengthened and must feel engaged, valued and rewarded. Unpaid carers must be supported, and they must be provided with a stronger voice, along with the networks, support and respite necessary to continue in their role.

4.1.3 Redesigning the System

- A new delivery system is required to achieve the potential of social care support in Scotland.
- A National Care Service is needed to achieve consistency, drive national improvements, ensure strategic integration with the National Health Service, set national standards, terms and conditions, and to bring national oversight/accountability.
- The National Care Service will bring together everyone with a role to play in planning and providing social care support to achieve a common purpose.
- Transformation is needed in the way social care support is planned, commissioned and procured. An approach that builds trusting relationships rather than competition is needed which involves partnerships rather than market-places.

- The voice of lived experience must be central to all aspects of the redesign and the new system must be co-produced with those who it supports at an individual and collective level.
- 4.2 The review makes 53 recommendations (detailed in appendix 1), grouped into the following themes:
- A human rights based approach
 - Unpaid carers
 - The case for a national care service (NCS)
 - A National Care Service for Scotland – how it should work
 - Models of care
 - Commissioning for public good
 - Fair Work
 - Finance

5. **Implications for Renfrewshire and next steps**

- 5.1 Many of the recommendations made in the review are of relevance to, and will impact upon, local authorities. The report calls for: new legislation: the reform of Integration Joint Boards; the establishments of a National Care Service; and a national job evaluation exercise amongst many other aspects.
- 5.2 The recommendations set out in the report which have particular implications for local authorities and for Renfrewshire are:
- New legislation should empower Scottish Ministers to discharge responsibility for the local planning, commissioning and procurement of social care support via Integration Joint Boards; and create national bodies to service and support social care support and social work at local and national level.
 - Accountability for social care support should move from local government to Scottish Ministers.
 - The establishment of a National Care Service for Scotland in statute, on an equal footing, with NHS Scotland.
 - The National Care Service should oversee commissioning and procurement of social care and be supported by reformed Integration Joint Boards, with services procured from Local Authorities and third and independent sector providers.
 - Integration Joint Boards should be reformed to take responsibility for planning, commissioning and procurement and should employ Chief Officers and consideration given to other relevant staff (for example, Chief Finance Officers) who would be employed by the IJB rather than the local authority/ health board. They should be funded directly by the Scottish Government.
 - The care home sector should become an actively managed market with a revised and reformed National Care Home Contract in place.

Consideration should be given to developing national contracts for other aspects of care and support.

- The National Care Service should address gaps in national provision for social care and social work in relation to workforce planning and development, data and research, IT and, as appropriate, national and regional service planning.
- The review recommends a national job evaluation exercise for work in social care, to establish a fair and equitable assessment of terms and conditions for different roles. This should take account of skills, qualifications, responsibilities and contribution.
- National minimum terms and conditions are recommended as a key component of new requirements for commissioning and procurement by Integration Joint Boards. Specific priority should be given to pay, travel time, sick pay arrangements, training and development, maternity leave, progression pathways, flexible pathways and pension provision. A national evaluation of terms and conditions should be undertaken to inform this.
- National oversight of workforce planning for social work and social care is recommended as a priority for a National Care Service.
- The current eligibility criteria and charging regime are seen as barriers to people accessing the support they need, when they need it. The report recommends fundamental reform of these and also advice and signposting to community-based resources.
- Informal, community support should be encouraged, supported and funded.
- A co-production and supportive process involving good conversations with individuals should replace assessment processes.
- Packages of care and support plans must be made more portable.
- Carers should be given a right to respite with an amendment to the Carers Act as required, and a range of options for respite and short breaks should be developed.
- Social work and social care support should be cohesive across age/professional groupings enabling transitions between children's services and adult services. Implementation should link with The Promise.

5.3 In summary, the recommendations within the independent review report have potentially significant implications for adult social care and for the role of local authorities going forward. The system wide change which is being proposed will require significant further engagement with all stakeholders and legislation will need to be developed and enacted in order to enable these changes.

5.4 The Council, at both elected member and officer level, will engage in discussions through COSLA and professional organisations to consider the implications of the report and its recommendations in more detail. It is anticipated further detail will emerge following consideration of the report by the Scottish Parliament on 16th February 2021. Further reports will be provided to elected members as further detail becomes available.

Implications of the Report

1. **Financial** – The recommendations set out in the independent review, if implemented could have a significant impact on the financial resources available to the Council. Under these, Integration Joint Boards would be funded directly through the National Care Service to provide adult social care services. These may be commissioned from the Council, or may be required to transfer to IJBs.
2. **HR & Organisational Development** – If implemented, the recommendations within the independent review report could have significant implications for the Council's workforce. As highlighted within this report to Council, this could require transfer of staff and professional responsibilities to the Integration Joint Board.
3. **Community/Council Planning** – The recommendations within the independent review 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 reconfigured IJB 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 Integration Joint Boards. This could create a conflict of interest if the Integration Joint 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** – While there are no immediate implications for procurement, the recommendations set out in the Commission are likely to have a significant impact on the procurement of social care support in the future with a shift to an outcomes focused or collaborative approach to the commissioning of services and in relation to the national care home contract arrangements.
- 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 is currently engaging with local authorities in relation to the independent review and its recommendations. It is anticipated that a local government response to the report will be prepared by COSLA and submitted to MSPs prior to the planned debate on the report in the Scottish Parliament in February 2021.

List of Background Papers

- (a) n/a

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

Appendix 1

Recommendations

A human rights based approach

1. Human rights, equity and equality must be placed at the very heart of social care and be mainstreamed and embedded. This could be further enabled by the incorporation of human rights conventions.
2. Delivering a rights based system in practice must become consistent, intentional and evident i the everyday experience of everyone using social care support, unpaid carers and families, and people working in the social care support and social work sector.
3. People must be able to access support at the point they feel they need it, including for advice and signposting to local community-based resources and help, and for barriers to this, such as the current eligibility criteria and charging regime, to be fundamentally reformed and removed, to allow a greater emphasis on prevention and early intervention.
4. People should understand better what their rights are to social care and supports, and “duty bearers”, primarily social workers, should be focused on realising those rights rather than being hampered in the first instance by considerations of eligibility and cost.
5. Where not all needs can be met that have been identified as part of a co-production process of developing a support plan, these must be recorded as unmet needs and fed into the strategic commissioning process.
6. Informal, community based services and supports must be encouraged, supported and funded to respond appropriately to the needs of local citizens, including for preventative and low level support.
7. A co-production and supportive process involving good conversations with people needing support should replace assessment processes that make decisions over people’s heads and must enable a full exploration of all self-directed support options that does not start from the basis of available funding. Giving people as much choice and control over their support and care is critical.
8. More independent advocacy and brokerage services, including peer services, must be made available to people to ensure that their voices are heard, and to help prepare for participation in planning and organising their support.
9. When things do not work well for people and their rights have not been upheld, they must have rapid recourse to an effective complaints system and to redress.
10. Packages of care and support plans must be made more portable and supported people should not have to fight to retain support because they have moved home.

Unpaid carers

11. Carers need better, more consistent support to carry out their caring role well and to take a break from caring with regular access to quality respite provision. Carers should be given a right to respite with an amendment to the Carers Act as required, and a range of options for respite and short breaks should be developed.
12. A new National Care Service should prioritise improved information and advice for carers, and an improved complaints process. It should take a human rights based approach to the support of carers.
13. Local assessment of carers’ needs must, in common with assessment of the needs of people using social care support services and supports, better involve the person themselves in planning support.
14. Carers must be represented as full partners on the Integration Joint Boards and on the Board of the National Care Service.

The case for a national care service (NCS)

15. Accountability for social care support should move from local government to Scottish Ministers, and a Minister should be appointed with specific responsibility for Social Care.
16. A National Care Service for Scotland should be established in statute along with, on an equal footing, NHS Scotland, with both bodies reporting to Scottish Ministers.
17. The National Care Service should oversee local commissioning and procurement of social care and support by reformed Integration Joint Boards, with services procured from Local Authorities and third and independent sector providers. Integration Joint Boards should manage GPs' contractual arrangements, whether independent contractors or directly employed, to ensure integration of community care and support provision, to respect and support professional interdependencies, and to remove the current confusion about where responsibility for primary care sits.
18. The National Care Service should lead on the aspects of social care improvement and support that are best managed once for Scotland, such as workforce development and improvement programmes to raise standards of care and support.
19. The National Care Service should oversee social care provision at national level for people whose needs are very complex or highly specialist and for services such as prison social care that could be better managed on a once-for-Scotland basis.
20. The National Care Service's driving focus should be improvements in the consistency, quality and equity of care and support experienced by service users, their families and carers, and improvements in the conditions of employment, training and development of the workforce.

A National Care Service for Scotland – how it should work

21. The National Care Service in close co-operation with the National Health Service should establish a simplified set of outcome measures to measure progress in health and social care support, through which to oversee delivery of social care in local systems via reformed Integration Joint Boards and national care bodies.
22. A Chief Executive should be appointed to the National Care Service, equivalent to the Chief Executive of the National Health Service and accountable to Ministers.
23. Integration Joint Boards should be reformed to take responsibility for planning, commissioning and procurement and should employ Chief Officers and other relevant staff. They should be funded directly by the Scottish Government.
24. The role of existing national care and support bodies – such as the Care Inspectorate and Scottish Social Services Council – should be revisited to ensure they are fit for purpose in a new system.
25. The National Care Service should address gaps in national provision for social care and social work in relation to workforce planning and development, data and research, IT and, as appropriate, national and regional service planning.
26. The National Care Service should manage provision of care for people whose care needs are particularly complex and specialist, and should be responsible for planning and delivery of care in custodial settings, including prisons.
A new approach to improving outcomes – closing the implementation gap, a new system for managing quality
27. A National Improvement Programme for social care, along the lines of the NHS Patient Safety Programme, should be introduced by the National Care Service, and should address the three following key areas:
 - The experience and implementation of self-directed support must be improved, placing people using services' needs, rights and preferences at the heart of the decision making process.
 - The safety and quality of care provided in care homes must be improved to guarantee consistent, appropriate standards of care.

- Commissioning and procurement processes must be improved in order to provide a vehicle for raising the quality of social care support and for enhancing the conditions and experience of the social care workforce.

Models of care

28. The Scottish Government should carefully consider its policies, for example on discharge arrangements for people leaving hospital, to ensure they support its long held aim of assisting people to stay in their own communities for as long as possible.
29. A national approach to improvement and innovation in social care is needed, to maximise learning opportunities and create a culture of developing, testing, discussing and sharing methods that improve outcomes. The future role of the Institute for Research and Innovation in Social Services (IRISS) and its inclusion as part of the National Care Service must be considered.
30. There must be a relentless focus on involving people who use services, their families and carers in developing new approaches at both a national and local level.
31. Investment in alternative social care support models should prioritise approaches that enable people to stay in their own homes and communities, to maintain and develop rich social connections and to exercise as much autonomy as possible in decisions about their lives. Investment in, or continuance of, models of social care support that do not meet all of these criteria should be a prompt for very careful reflection both by a National Care Service and local agencies.

Commissioning for public good

32. Commissioners should focus on establishing a system where a range of people, including people with lived experience, unpaid carers, local communities, providers and other professionals are routinely involved in the co-design and redesign, as well as the monitoring of services and supports. This system should form the basis of a collaborative, rights based and participative approach.
33. A shift from competitive to collaborative commissioning must take place and alternatives to competitive tendering developed and implemented at pace across Scotland. Commissioning and procurement decisions must focus on the person's needs, not solely be driven by budget limitations.
34. The establishment of core requirements for ethical commissioning to support the standardisation and implementation of fair work requirements and practices must be agreed and set at a national level by the new National Care Service, and delivered locally across the country.
35. To help provide impetus and support to the adoption of a collaborative and ethical approach to commissioning, the idea from CCPS of pressing pause on all current procurement should be fully explored in the context of a National Care Service, with a view to rapid, carefully planned implementation.
36. The care home sector must become an actively managed market with a revised and reformed National Care Home Contract in place, and with the Care Inspectorate taking on a market oversight role. Consideration should be given by the National Care Service to developing national contracts for other aspects of care and support. A 'new deal' must form the basis for commissioning and procuring residential care, characterised by transparency, fair work, public good, and the re-investment of public money in the Scottish economy.
37. National contracts, and other arrangements for commissioning and procurement of services, must include requirements for financial transparency on the part of providers along with requirements for the level of return that should be re-invested in the service in order to promote quality of provision and good working conditions for staff.

38. A condition of funding for social care services and supports must be that commissioning and procurement decisions are driven by national minimum quality outcome standards for all publicly funded adult social care support.
39. A decisive and progressive move away from time and task and defined services must be made at pace to commissioning based on quality and purpose of care – focused upon supporting people to achieve their outcomes, to have a good life and reach their potential, including taking part in civic life as they themselves determine.
40. Commissioning decisions should encourage the development of mutually-supportive provider networks as described above, rather than inhibiting co-operation by encouraging fruitless competition.
41. Commissioning and planning community based informal supports, including peer supports, is required to be undertaken by Integration Joint Boards and consideration of grant funding to support these is needed.

Fair Work

42. Rapid delivery of all of the recommendations of the Fair Work Convention, with an ambitious timetable for implementation to be set by the Scottish Government.
43. Conduct a national job evaluation exercise for work in social care, to establish a fair and equitable assessment of terms and conditions for different roles. This should take account of skills, qualifications, responsibilities and contribution.
44. Putting in place national minimum terms and conditions as a key component of new requirements for commissioning and procurement by Integration Joint Boards. Specific priority should be given to pay, travel time, sick pay arrangements, training and development, maternity leave, progression pathways, flexible pathways and pension provision. The national evaluation of terms and conditions should be undertaken to inform these minimum standards and these should be reviewed as required.
45. Establishing a national organisation for training, development, recruitment and retention for adult social care support, including a specific Social Work Agency for oversight of professional development. The current role, functions and powers of the SSSC should be reviewed and appropriate read-across embedded for shared and reciprocal learning with the NHS workforce.
46. Establishing a national forum comprised of workforce representation, employers, Integration Joint Boards and the Scottish Government to advise the National Care Service on workforce priorities and to take the lead in creating national sector level collective bargaining of terms and conditions.
47. National oversight of workforce planning for social work and social care, which respects the diversity and scale of employment arrangements while improving resilience and arrangements for mutual support should be a priority for a National Care Service.
48. The recommendations listed above should apply to Personal Assistants employed by people using Option 1 of SDS, who should be explicitly recognised as members of the workforce, as well as employees of providers in the public, third and independent sectors. This recommendation should be delivered in full partnership with the independent living movement.

Finance

49. Prioritising investment in social care as a key feature of Scotland's economic plans for recovery from the effects of the Covid-19 pandemic.
50. Careful analysis by a National Care Service, with its partners in the National Health Service, Integration Joint Boards and beyond, of opportunities to invest in preventative care rather than crisis responses, to avoid expenditure on poor outcomes such as those experienced by people who are delayed in hospital.
51. Additional investment in order to:

- expand access to support including for lower-level preventive community support;
 - implement the recommendations of the Fair Work Convention;
 - remove charging for non-residential social care support;
 - increase the sums paid for Free Personal and Nursing Care for self-funders using care homes to the levels included in the National Care Home Contract;
 - re-open the Independent Living Fund, with the threshold sum for entry to the new scheme reviewed and adjusted; and
 - review financial support made available to unpaid carers and increase investment in respite.
52. Robustly factoring in demographic change in future planning for adult social care.
53. Careful consideration to options for raising new revenues to increase investment in adult social care support