
Report To:	Policy & Resources Executive Sub-Committee	Date:	23 August 2022
Report By:	Corporate Director Education, Communities & Organisational Development	Report No:	PR/18/22/MR
Contact Officer:	Morna Rae	Contact No:	07385434459
Subject:	National Care Service (Scotland) Bill – Call for Views		

1.0 PURPOSE AND SUMMARY

- 1.1 For Decision For Information/Noting
- 1.2 The purpose of this report is to seek approval from the Policy and Resources Executive Sub-Committee of the draft Inverclyde Council response to the National Care Service (Scotland) Bill.
- 1.3 On 20th June 2022 the Scottish Government introduced the National Care Service (Scotland) Bill to the Scottish Parliament proposing the establishment of a new National Care Service. As part of the Bill's progress, the Scottish Parliament's Health, Social Care and Sport Committee has published a Call for Views on the terms of the Bill.
- 1.4 A Members' Briefing took place on 16th August to seek views on the Bill. A report was given to the Social Work and Social Care Scrutiny Panel on 18th August. As the Call for Views will close on Friday 2nd September, a special meeting of this Committee has been convened to review and approve the Council's consultation response and its submission to the Scottish Parliament.

2.0 RECOMMENDATIONS

- 2.1 It is recommended that the Policy & Resources Executive Sub-Committee approves the Council's response to the Call for Views on the National Care Service (Scotland) Bill.

Ruth Binks
Corporate Director
Education, Communities & Organisational Development

3.0 BACKGROUND AND CONTEXT

3.1 The Scottish Government recently carried out a public consultation on its proposals for a National Care Service (NCS) to achieve changes to the system of community health and social care in Scotland. The full response to the consultation can be found here:

<https://www.gov.scot/publications/national-care-service-consultation-analysis-responses/>

3.2 On 20th June 2022, the Scottish Government introduced the National Care Service (Scotland) Bill to the Scottish Parliament. The Bill would establish a National Care Service in Scotland, and allow Scottish Ministers to transfer responsibility for a range of social care services from local authorities to the new service. This could include adult and children’s services, as well as areas such as justice and social work. New “care boards” would be responsible for delivering care locally.

3.3 Views are now being sought on the Bill by Scottish Parliament Committees as they begin their Stage 1 scrutiny of the Bill. The Scottish Parliament’s Health, Social Care & Sport Committee will lead scrutiny of the Bill, but given its wide ranging nature, other committees will scrutinise certain provisions.

3.5 The Call for Views includes general questions about the Bill, questions about the Financial Memorandum and the option to provide more detailed comments on individual sections of the Bill. It is primarily aimed at groups and organisations who are looking to input their views on the Bill. Further detail on the Call for Views can be found here:

<https://yourviews.parliament.scot/health/national-care-service-bill/>

3.6 Inverclyde Integration Joint Board will be submitting a separate, standalone response to the Call for Views.

3.7 An Inverclyde Council response has been prepared (Appendix 1). This is focused on the general questions about the Bill, and has been drafted in consultation with officers and Elected Members.

3.8 The Call for Views will close on 2nd September 2022.

4.0 PROPOSALS

4.1 It is proposed that the Policy and Resources Executive Sub-Committee consider and approve the draft response available at Appendix 1 and agree to its submission to the Scottish Parliament.

5.0 IMPLICATIONS

5.1 The table below shows whether risks and implications apply if the recommendation(s) is(are) agreed:

SUBJECT	YES	NO	N/A
Financial		x	
Legal/Risk		x	
Human Resources		x	
Strategic (LOIP/Corporate Plan)		x	
Equalities & Fairer Scotland Duty			x
Children & Young People’s Rights & Wellbeing			x

Environmental & Sustainability			x
Data Protection			x

5.2 Finance

There are no financial implications arising from this report.

One off Costs

Cost Centre	Budget Heading	Budget Years	Proposed Spend this Report	Virement From	Other Comments
N/A					

Annually Recurring Costs/ (Savings)

Cost Centre	Budget Heading	With Effect from	Annual Net Impact	Virement From (If Applicable)	Other Comments
N/A					

5.3 Legal/Risk

There are no legal or risk implications arising from this report. This is a factual report for noting.

5.4 Human Resources

There are no human resources implications arising from this report.

5.5 Strategic

None.

6.0 CONSULTATION

6.1 Consultation has been undertaken with officers as well as Elected Members through a Members' Briefing and the Social Work and Social Care Scrutiny Panel.

7.0 BACKGROUND PAPERS

7.1 None.

National Care Service (Scotland) Bill Call for Views

Draft Inverclyde Council Response v7

General questions

1. *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?*

Inverclyde Council supports the need for change in how social care services are funded and delivered. The Council recognises the importance of and supports aspects of the Bill such as introducing a right to breaks for carers and giving rights to people living in adult care homes to see the people important to them (known as “Anne’s Law”). However, the Council does not believe that a move to a National Care Service, and reconfiguring of new national and local structures to accommodate this, will automatically transfer into improved outcomes for the people of Inverclyde.

There is no evidence that suggests a National Care Service using the proposed model will improve quality. Very positive inspections across children’s, justice and adult protection services have indicated that there is already a strong partnership and relationships across Inverclyde. Further time to embed work and adequate resourcing will build on these successes. A more effective approach would be to build on the successful model we have here, rather than replacing it with a centralised model with little democratic accountability.

The Council questions how a National Care Service will be able to be flexible and responsive to meet the needs of small communities. Consistency, leaving aside necessary local variation, would have significant resourcing implications and could result in services which do not meet the needs of local service users.

Inverclyde Council believes that rather than focussing on structural change across a wide range of social work and social care services without the evidence to support this, the focus should be on adequately resourcing services. The approach as set out in the Bill introduces unnecessary risk associated with structural reform.

The Bill focuses on rights. While this is laudable, and is a principle supported by the Council, the lack of prioritisation could cause significant increased demand so creating waiting lists which would need to be prioritised.

The Bill both goes beyond the recommendations of the Independent Review of Adult Social Care whilst also ignoring other important aspects of it such as care home sector reform, along with national contracts and terms and conditions. There does not appear to be a clear rationale behind which recommendations of the Review are being taken forward and which are discounted.

Councils currently have a duty to promote individual and social welfare. The removal of social care and social work services from local authorities will significantly impede their ability to do so.

2. *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?*

The Bill goes far beyond the scope of the Independent Review of Adult Social Care. It should be limited to focus on the following themes where there are advantages in having economies of scale and consistency across the country, whilst not impeding locally relevant and accessible services:

- Standards; Assurance; and Scrutiny
- Planning and Policy Development and Performance Management
- Workforce Planning and Training and Development
- Sharing Improvement and Innovation
- Ethical Commissioning and Procurement using existing frameworks through Scotland Excel

The Bill does not deal with a fundamental challenge in the social work and social care sector, namely the staffing crisis and inadequate terms and conditions. Using resources to effectively deal with these aspects would be more effective than unevidenced wholesale structural change.

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

As outlined in the response to Q2 the Bill overreaches and should be more focused.

In relation to Care Boards as employers Inverclyde Council has significant concerns about the transfer of local authority staff;

- There is a lack of clarity as to who will make the decisions on employment, and this is unsettling for our workforce,
- It is unclear why it would only be local government employees (and not Health Board or independent/third sector staff) in scope to move,
- The Bill is silent on the TUPE implications leading to additional concern within the workforce,

- The work of the Council reaches into all aspects of our lives, including employment, environment, housing, and education, all of which impact on improved health and wellbeing with complex interdependencies. This potential breaking up of the local government workforce would have a damaging impact on cohesion, efficiency and effectiveness,
- There would also be significant implications for Council Corporate Services such as Finance, Communications, HR, Payroll, Legal, Property, Facilities Management, Transport and Procurement which currently provide a service to the HSCP, and
- It is unclear who is responsible for any associated redundancy costs in the event there are fewer posts required under the new arrangements than currently provide support to the transferring functions.

The Bill takes a prescriptive and short term approach to strategic planning. The three year term proposed is insufficient to allow significant progress to be made against a strategic plan and will create an industry of consultation and drafting of a new plan.

The Council has concerns about the decision making process for who sits on Care Boards and believes the Bill should clearly explain how this will be undertaken in a transparent and democratic way.

The Council does not believe that reforms to the current complaints processes for our social work and social care services are required. These are subject to the same complaints process as all public authorities through the Ombudsman and compliance is monitored accordingly. In addition commissioned services through the voluntary sector have effective complaints processes established through the commissioning contracts.

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

It is unclear in the Bill how the development of a National Care Service sits against the Scottish Government's localism agenda, supported by the Community Empowerment (Scotland) Act 2015, which focuses on local planning, relationships and empowerment.

Allied to this theme of localism is the size and scale of Care Boards. The Bill should recognise the importance of locally relevant and accessible Care Boards at a local authority geography. Regional approaches would not be appropriate.

The role of the current range of IJB members, who work effectively together in Inverclyde, on the Care Boards is unclear. These valuable local relationships should not be lost in any new model or regional Care Boards.

Elected Members, as democratically elected representatives of the local population, with strong interests in the wellbeing of local people and an understanding of the local issues and opportunities are also not given a role.

There are reforms which while recommended by the Independent Review of Adult Social Care and supported by the Council are not included in the Bill. These include the removal of charges for non-residential social care support and the increase in the sums paid for free personal and nursing care for self-funders in care homes to the levels included in the National Care Home Contract.

5. *The Scottish Government proposes that the details of many aspects of the proposed National Care Service will be outlined in future secondary legislation rather than being included in the Bill itself. Do you have any comments on this approach? Are there any aspects of the Bill where you would like to have seen more detail in the Bill itself?*

The Council's position is that the primary legislation is an insufficient framework upon which to deliver such potential radical change. The current lack of detail impacts on our ability to plan for coming years and secure investment in the sector when there are so many unknowns. Leaving so much to secondary legislation will mean there will be no effective consultation, no opportunities for expert advice and experience to influence the details and a lack of transparency and democratic accountability.

There is a notable likelihood the evaluation of Children Services and subsequent consultation will not be complete in sufficient time to consider within the current timeline. Fostering and Adoption expertise sits within the Council, and there is significant risk in separating this from the Council's specialist internal experience and knowledge. Clarity on the Justice Services consultation is also required. These uncertainties lead to concerns about the management of public protection, in particular Child Protection and MAPPA, which the Bill is silent on.

6. *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?*

Childrens Services and Justice Services should be removed from the scope of the National Care Service. The Council's position is that secondary legislation is not appropriate to make such changes.

The initial Independent Review of Adult Social Care did not consider children as part of that remit, and the Council is therefore unclear why children's services are within the scope of a future transfer. The focus should be on delivering better outcomes through the Promise rather than structural change.

The Council would also have concerns about the delivery of MAPPA as part of the Public Protection role along with Police Scotland. Local authorities have an important role in ensuring learning from significant case reviews. A national

service for Justice will lose local links with Police and adds further risk into one of the most risky areas of Social Work.

The Council's position is that only limited functions should be transferred, if the Bill becomes law as proposed. A National Care Service with specific roles in relation to ethical commissioning, assurance, as well as sharing improvement and innovation would have merit. Accountability for other functions should remain with local authorities and IJBs, building on current successes and being adequately financed.

If the Bill as currently outlined is progressed with Adult Services and Alcohol and Drug Services included then Inverclyde Council would have a concern in relation to homelessness services. In the Haredges Scotland report of June 2019 Ian Kelly Chase highlights the interplay between homelessness, substance dependency, offending and SIMD areas given the areas. It is unclear what the rationale is to have homelessness services sitting separate to Justice and Alcohol and Drugs Services. Many of those using homelessness services have vulnerabilities and their housing support is closely interlinked with alcohol and drug services and mental health provision.

7. 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?

Fundamentally, many of the issues within the current social care system are the product of under-resourcing. The Council believes that it would be a more effective use of public resources if funding, together with officials energy and time, could be used to adequately resource established local provision which is aligned to the needs of our local communities, rather than the establishment of a new National Care Service as proposed. The financial memorandum outlines the very significant costs anticipated in implementation over 2022-23 to 2026-27 of over 1 billion pounds. This investment would be much better used to support and improve the current model.

Clarity is needed on the overall funding envelope envisaged for the National Care Service and the associated sources of funding between existing budgets (specifically funding contained in the Local Government Settlement) and new monies not currently in the existing approved Scottish Government Budget. This will allow a transparent assessment by Councils of the impact of the proposed changes on not only the functions transferring but more importantly those services remaining. The management of the financial and employee impacts will take time and therefore early detailed clarity is needed.

Analysis by the Institute of Fiscal Studies suggests that it will be extremely difficult to accurately identify (and then remove) related funding from Council budgets under the new model and covering shortfalls may require reducing spending on other services by local authorities or increasing Council Tax.

It is unclear what the approach to assets currently used by the proposed transferring functions will be. Buildings, ICT systems/equipment, vehicles and the like appear on the Council Balance Sheet and clarity is needed as to the approach expected regarding the potential for transfer of ownership and recompense for Councils who will have outstanding loan debt and legal agreements for many of these assets. In addition, the Council, like many others, is currently reviewing its estate, and this added uncertainty further compounds the difficulty in being able to confidently make medium and long term decisions around future requirements.

Currently the use of Council Corporate and Support Services (such as Finance, Communications, HR, Payroll, Legal, Property, Facilities Management, Transport and Procurement) to support social work and social care services enables economies of scale. Establishing separate provision for the Council and Care Boards will be inefficient and involve additional costs.

8. *The Bill is accompanied by the following impact assessments:*

- *Equality impact assessment*
- *Business and regulatory impact assessment*
- *Child rights and wellbeing impact assessment*
- *Data protection impact assessment*
- *Fairer Scotland duty assessment*
- *Island communities impact assessment*

Do you have any comments on the contents and conclusions of these impact assessments or about the potential impact of the Bill on specific groups or sectors?

There needs to be a greater understanding on how the proposals would contribute to and would not negatively impact the wider determinants of health including social, environmental and economic. Investment in physical and mental health services must go alongside investment in education, housing, employability, financial inclusion, transport and much more. These are services that councils deliver, many of which have been negatively impacted by reducing resources.