

National Care Service

Q&A-Engagement Sessions



National Care Service (Scotland) Bill – Q&A - engagement sessions

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Introduction

The National Care Service (Scotland) Bill was introduced into Parliament on 20 June 2022.

The Scottish Government held a number of engagement events throughout July and August to aid peoples understanding of the Bill. As the Bill is a document that proposes to change the law, it would lose its legal meaning if it was translated into easy read. During these engagement sessions, people were given the opportunity to ask questions. In total, we received over 300 questions from members of the public and stakeholders.

We received many questions of a similar nature, so instead of answering each question individually we have grouped the questions together where possible in order to produce an accessible Q&A.

Additional information about the National Care Service (Scotland) Bill can be found in the policy memorandum and financial memorandum: [Introduced | Scottish Parliament Website](#)

The answers to these questions are correct as of 30 November 2022.

Local Structures

Care boards: what are they and will they be integrated?

- The Independent Review of Adult Social Care and Audit Scotland found the current ways of working 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.
- As proposed the care boards will have responsibility for design and delivery of community health, social work and social care functions at a local level.
- Local care boards working together as part of the National Care Service and with the NHS, local authorities, third and independent sectors, will improve support for people at a local and national level.
- Through co-design we will consider how best to ensure effective joint working with other services such as housing, education, and policing with those with lived experience and stakeholders.

What will happen to Integrated Joint Board's (IJB's) and Health and Social Care Partnership's (HSCP's)?

- The care boards will have responsibility for social care functions that currently are the responsibility of local authorities, and will also have responsibility for planning and commissioning community health services.
- We intend to co-design and consult extensively with partners and stakeholders on how best to provide a National Care Service that delivers both national consistency and local flexibility.
- The proposals will have implications for HSCP's that we will want to work through as part of the co-design process and in consultation with partner organisations.
- Care boards will provide the new interface between the National Care Service at national level, local decision-makers and the teams that deliver integrated functions. The way in which future services are delivered will be developed during co-design and further consultation.
- At a national level the National Care Service will establish consistency of quality and access to social care across the country. It will set the strategy and direction including on ethical commissioning and Fair Work.
- At a local level care boards will have the duty and flexibility to plan, design and commission services locally to meet the needs of their community with the input of those with lived experience.
- The Scottish Government considered a number of alternative options described in the policy memorandum. We are confident that care boards build on the successful elements of integration while shifting accountability for social care to Scottish Ministers at the request of the Scottish public.
- Achieving the right balance between securing national consistency of service quality, and local flexibility to respond to circumstances is a key priority.
- Local government is an important partner in delivering social care currently and will remain so as we develop new ways to deliver improved care across the country.

How will people be employed by care boards?

- The proposal is that care boards will have their own budgets, ability to employ their own staff and will be directly accountable to ministers.
- The National Care Service Bill provides for Scottish Ministers to pay members of a care board remuneration and allowances.
- We will co-design the detail of the National Care Service to develop the final scope, duties, function, governance structures, number, geographical area, composition, and membership of care boards in addition to discussing how we can maximise collaboration and co-operation with other public bodies.

How will care boards be funded?

- A Financial Memorandum was published alongside the Bill which sets out a range of potential costs of the National Care Service.
- Scottish Ministers made a manifesto commitment to increase social care spend by 25% over the course of the Parliament, resulting in at least £840 million additional investment. This will support a range of investment including areas which will move towards a National Care Service. The increased investment in social care relates to a range of areas including workforce, the recommendations of the Independent Review, ongoing rising demand pressures and a move towards the National Care Service.

How will you ensure care boards work well on the Islands?

- [The Islands Equality Impact Assessment was published in June](#) and acknowledges the specific circumstances our Islands communities face.
- The Scottish Government is committed to engaging in a co-design process with stakeholders including people lived experience, service providers and health and social care workers to ensure the design and delivery of care boards. This will include consulting with representatives of the Island Communities on the best approach to take.

How will membership, remit and governance of care boards work?

- The National Care Service Bill makes some provision in relation to care boards, but provides for the care boards to be fully established via secondary legislation, which can only be brought forward once the Bill has been passed.
- The detail to develop the final scope, duties, function, governance structures, number, geographical area, composition, and membership of care boards will be co-designed.
- This will be enhanced by discussions about how we can maximise collaboration and co-operation with other public bodies.
- Priority will be to ensure that the boards are constituted so that they can deliver high quality services that reflect local circumstances.

Will care boards manage GP contractual arrangements?

- Following a consultation on the recommendation of the Independent Review of Adult Social Care the Scottish Government has decided that GP contracts will continue to be held by NHS Health Boards.
- We are not proposing any changes to the contractual arrangements of other independent contractors (such as dentists, community pharmacies etc).

National Care Service and Bill development

What is the purpose of the Bill and why does it not go into much detail?

- The purpose of the National Care Service (Scotland) Bill is to improve the quality and consistency of social services in Scotland.
- The Independent Review of Adult Social Care recommended the creation of a National Care Service, with Scottish Ministers being accountable for adult social care support.
- 72% of respondents who responded to the National Care Service consultation agreed that ministers should be accountable for the delivery of social care, through a National Care Service.
- It is essential that reforms to social care support, social work and community health services be developed with the people who access that support, including unpaid carers, and with those who provide it. The Scottish Government is committed to engaging with people with experience to co-design the detail of the new system, to finalise new structures and approaches to minimise the historic gap between legislative intent and delivery.
- For that reason the Bill creates a framework for the National Care Service, but leaves space for more decisions to be made at later stages through co-design with those who have lived experience of the social care system, and flexibility for the service to develop and evolve over time.
- Some of those future decisions will be implemented through secondary legislation, others will be for policy and practice. Where those decisions are implemented through secondary legislation (under this Bill or through pre-existing powers), financial and regulatory impact assessments will be provided. The Parliament will, therefore, have further opportunities to examine the implications of the Scottish Government's proposed reforms to the social care system.
- However, The Scottish Government is aware that we cannot wait for the National Care Service to start tackling issues in social care, which is why the National Care Service (Scotland) Bill was introduced to Parliament on Monday 20 June. We are taking steps now to improve the outcomes for people accessing care and support.
- The National Care Service will be separate to the National Health Service.

What about the role of the Independent Living Fund (ILF) in the National Care Service?

- The on-going legislative basis for ILF activity is Section 1A of the NHS Scotland Act 1978 and therefore it is not covered under the National Care Service Bill.

Will food issues with regard to health be considered in the National Care Service going forward?

- Cross-Scottish Government work is being undertaken, and a cross programme group has been set up. Other issues such as The Promise, will be linked in.
- The National Care Service (Scotland) Bill is high level, and does not mention detailed things like food, but there will be detailed provision in regulations.
- In addition, the Good Food Nation (Scotland) Act 2022 requires Scottish Ministers to produce a national good food nation plan.
- The Act stipulates that, among other things, this plan must have regard to the scope for food-related issues to affect outcomes in relation to health and physical and mental wellbeing (including in particular through the provision of health and social care services). This provides a clear opportunity to ensure that links between food and social care are properly considered.

How do directions and regulations work, and what is the difference between them?

- The Bill proposes to give ministers powers to make regulations or give directions on various issues. Ministers can only make regulations or give directions within the limits of what Parliament has agreed in an Act (a Bill is a draft Act). Parliament has to approve (or reject) regulations, but it can't amend them. Directions don't have to go through Parliament. They can be given to all bodies or just some.
- Co-design work will develop the policy of what should be in the regulations and directions over the next year or so. Once the Bill is passed we will set out a timetable for bringing regulations to Parliament.

There are people in Scotland that don't have a legal right to be there meaning they can't access social care services, would a National Care Service be available for people who don't have a right to remain?

- People with No Recourse to Public Funds (NRPF) can access social services. It is a common misunderstanding that people with NRPF status are restricted from accessing all public funds and services, as the UK Government's NRPF policy restricts access only to some public funds under immigration rules.
- Further information about our approach to supporting people who are subject to NRPF to access support and services can be found in the Ending Destitution Together strategy, jointly [published by Scottish Government and COSLA in March 2021](#).
- In addition, [good practice for social workers or other practitioners relating to the rights of migrant adults and children can also be found online](#).

Anne's Law

Is there a plan to extend Anne's Law to hospital visiting?

- The Government is keen to ensure that people are able to see and be supported by their loved ones. Although not currently included within the legislation we await the committee's consideration of the Bill at stage 1 and will consider any recommendations made.

Why do we need to wait for the National Care Service for Anne's Law?

- As it is part of the National Care Service Bill, Anne's Law will follow the same parliamentary timetable. However, once the parliamentary stages are complete, Anne's Law can be implemented to a separate schedule and does not have to wait for the National Care Service to be established. We published new Health and Social Care Standards related to visiting, which are already putting the aims of Anne's Law into practice.

Does Anne's Law overrule any decision made by Public Health?

- Anne's Law will enable Scottish Ministers to issue visiting Directions. In recognition of the need to ensure that ministers act on the basis of the best available advice, when the Directions are prepared, Public Health Scotland and other relevant bodies will be consulted prior to the Directions being issued. Once Directions are issued then all parties will be required to follow them.

Co-Design

What is Co-Design?

- Co-Design is the process of understanding what people need to achieve a certain outcome, and the creation of all the processes and changes needed to deliver that outcome within the constraints of what is possible or available.

What is the Scottish Government doing to co-design?

- Ministers have been clear that the National Care Service must be designed together with the people who access and deliver social care support.
- In the case of the National Care Service that means understanding what is needed to ensure social care support and other relevant services are fit for purpose. People who access and deliver social care support are experts in how current delivery of social care support works and can identify how we can improve outcomes.
- People working in national and local government and other organisations with experience in delivering social care support, or managing programmes of change, will bring a different set of important skills and expertise.
- The Scottish Government is designing the National Care Service in partnership, building a shared understanding, imagining a better future, and putting in place what is needed to deliver it.
- The National Care Service is there for everyone, so it is important that the co-design process is accessible and inclusive, and that we have representation from a diverse range of people with different experiences and other relevant services and we are committed to giving a strong voice to those who rely on social care, unpaid carers, and the workforce, listening to their needs and acting on what they tell us.

How can we register our interest in co-design?

- We have launched a Lived Experience Experts Panel and hope to include between 1000 to 1500 people on the panel.
- You can register for the Lived Experience Panel here: [Get involved in designing the National Care Service](#)
- Co-design work will continue throughout the course of this parliament and will continue to inform the design, delivery and continuous improvement of the National Care Service over the coming years.
- It's also important that delivery partners and other key stakeholder organisations are involved in planning and developing the National Care Service.
- That's why we have created a National Care Service Stakeholder Register – so we can build an understanding of which organisations want to take part in future co-design activities.
- We have already been working with lots of organisations on the development of the National Care Service up to now, but we still want to hear from both existing partners and new ones.
- You can sign up for the stakeholder register here: [Get involved in designing the National Care Service \(NCS\)](#)

How will you ensure there are no barriers to co-design?

- The National Care Service is for everyone and we want to hear from everyone. We are consulting with stakeholder groups who have lived experience, to find out how best to support people joining the Lived Experience Experts Panel, to feel comfortable and confident to take part in design and research.
- We will prioritise involving people who face additional barriers to engaging, whose needs are particularly complex, or who belong to protected groups as defined in the Equality Act.
- We will develop a range of options to encourage people to contribute in a way that suits them, this may include face to face discussions, telephone discussions or correspondence by post.
- You will be able to register your interest to join the Lived Experience Expert Panel at any time.

How will you co-design national and local structures?

- The Scottish Government will co-design parts of the National Care Service that will operate at national level with people who access and deliver community health and social care support. This will include a Charter of Rights, a national complaints process, and an electronic social care and health record.
- We will work in partnership with local government, the NHS and other key partners, as the integration of health and social care has been the shared ambition of national and local government for many years. Working together and sharing our collective experiences is key to getting change right.
- We will engage with stakeholders and experts – people with lived experience of the service, people accessing care and support, their families, NHS management

and clinical staff, around the integration of community health and social care to deliver better outcomes for people.

- Local care boards working together, across local boundaries, as part of the National Care Service and working in partnership with the NHS, local authorities, third and independent sectors, will improve support for people at a regional and national level.
- In their local areas, local care boards will work with partners to ensure that support and services for people are safe, effective, seamless, and person centred. Local people will be embedded in the design, development, and delivery of support and services.
- We will consider how best to ensure effective joint working with other services such as housing, education, and policing through co-design with stakeholders, including representatives from integration authorities, health and social care partnerships, local government, health boards, primary and community care, carers and service users.

Rights to breaks for carers

How do we ensure all carers receive a break? What about young carers?

- Local authorities currently have responsibilities to promote a variety of short break provision in their areas and we are funding Shared Care Scotland and Healthcare Improvement Scotland to assist them and share good practice. We have also expanded the voluntary sector Short Breaks Fund from £3m to £5m in 2022-23. We are talking with these and other stakeholders about what more can be done to improve capacity. The National Care Service Bill will enable the National Care Service to plan and commission services. The Financial Memorandum to the Bill sets out estimates of the additional costs the Scottish Government expects for additional support to meet the right to breaks.
- Separately from this Bill, there is ongoing national and local work to help identify those who are in caring roles and make them aware of the support available to them. This includes a national communications campaign which ran in late 2020 and again in March 2022.
- All young carers (and adult carers) have rights to a support plan, information and advice, etc. There is wider local and national work, to improve awareness of YC support among young people and education staff but agree more still needs to be done on this.

What does the change in local eligibility mean?

- Removal of local eligibility criteria from decisions about support for breaks from caring will reduce scope for variation in approaches between areas. The establishment of the National Care Service will also improve consistency in delivery of support.

Additional Services

How will social work be included in the National Care Service?

- A National Social Work Agency (NSWA) will be established within the National Care Service. The NSWA's objectives are to support and invest in the social work profession by providing national leadership, and overseeing and supporting social work in the following areas:
 - Education (pre-and post-qualifying)
 - Improvement (by establishing a Centre of Excellence) and scaling up good practice
 - Workforce planning
 - Training and development
 - Social work terms and conditions (including pay)
- The National Care Service Bill's Policy Memorandum sets out the rationale for setting up a National Social Work Agency. The National Care Service Consultation analysis showed strong support for a National Social Work Agency.

What about social work complaints?

- The National Care Service complaints service will provide ease of access and consistency of complaints handling.
- We are aware of good practice in dealing with complaints in a number of areas and the important role of oversight bodies such as the Care Inspectorate and the Scottish Public Services Ombudsman.
- We will continue to work with these bodies to develop a service that builds on good practice already in place and we will develop a complaints policy through co-design with people with lived experience of accessing social care services, as well as relevant stakeholders.

How will children's services be included in the National Care Service?

- Before a decision is made on whether children's services should be included in the National Care Service it is vital we understand whether transferring children's services into the National Care Service will improve outcomes for children, young people and their families or whether needs are best met by children's services remaining outside the National Care Service.
- Research has been commissioned to inform the decision and ensure it is one which best meets the needs of children, young people and their families.
- If - based on the evidence gathered and other relevant considerations - ministers think that children's services should transfer into the National Care Service, a full public consultation will be held. The consultation will take place within a timescale that will ensure that children's services can be included from day one of the National Care Service, if the decision is to include children's services. We are not proposing that all services for children are included in the National Care Service. The children's services under consideration for inclusion in the National Care Service include children's social work and related social care services, including residential childcare provision; community health services for children; and CAMHS. Local authorities will retain responsibility for education-based services including schools, teaching staff and early learning and childcare.
- We do not want the creation of the National Care Service to hinder or stop any of the progress being made for children, young people and families. The Scottish

Government has committed to Keep The Promise by 2030 and recognises all of the work being done by local authorities to continue to improve the outcomes of children and young people. Our partners in local government are committed to this and we welcome their commitment to continue this important work during the decision-making period. We will be engaging with key delivery partners throughout this process, which offers an opportunity to discuss and deal with any issues or concerns which arise.

How will Justice Social Work be included in the National Care Service?

- A decision has not been taken on whether justice social work services will be included in the National Care Service. The Bill includes an enabling power to allow for the transfer of justice social work into the National Care Service by secondary legislation if, following further work, the decision is to do so.
- We recognise that justice social work was not included in the Independent Review of Adult Social Care, which is why we are in the process of establishing an evidence review and further programme of work to take place to ensure an informed decision is made on the potential inclusion of children's services in the National Care Service.

Justice social work is currently present within some Integration Joint Board's. What happens to those services when the Bill becomes law?

- Transition arrangements are still to be confirmed and will be subject to decisions on scope. For those areas where justice social work services are currently within Integration Joint Boards, however, it is clear that some change will be required regardless of whether or not those are transferred into the National Care Service and we are actively considering how any such changes will be managed effectively.

How will mental health be included in the National Care Service? How will the proposal of upcoming changes to mental health legislation be affected?

- Decisions on which services will be the responsibility of the National Care Service is still to be decided. We are keen to learn from the experience of the Integrated Joint Boards and the experience of the people and staff to inform decisions on this.
- Like the Scott Review into Mental Health Law, the National Care Service is committed to prioritising a human-rights based approach. We will engage with the range of findings presented by the Scott Review which was published in September, and will ensure how these interact with the work of the National Care Service, including dementia services, is accounted for in our response to the Review.

How will homelessness services fit into the National Care Service?

- It is not proposed that the housing or homelessness functions of local authorities should transfer to the National Care Service. However, the Scottish Government

is very aware of the need for social care support to co-ordinate effectively with other services, and the National Care Service will work closely with local authorities to ensure this continues to be the case. In particular, we will ensure that people who are homeless or at risk of homelessness are able to access high quality social care support when they need it.

Finance

How will you fund the National Care Service?

- We have committed to increase public investment in social care by 25% over the lifetime of this Parliament, the equivalent of more than £840 million of increased investment. Our 2022/23 budget confirmed more than £1.6 billion directly from the Scottish Government for social care and integration to lay the groundwork for the National Care Service. This is in addition to the investment that is provided for care services by local authorities currently.
- Further detail will be given through evidence based appraisals of affordability and value for money.
- Specific detail on funding has not yet been communicated as this will be developed through co-design and understanding which services will be delivered in the National Care Service.
- All investment decisions made will consider the results of the public consultation and ongoing engagement with stakeholders to ensure investment can have the best impact on outcomes and people's care. The consultation on the National Care Service made clear that the proposals aim to put a human rights-based approach at its heart and to refocus the system to one that upholds the human rights of people who access and who offer care and support.

Social Care and Health Record

When will integrated social care and health records be online? Will this information automatically be shared?

- We will shortly be undertaking formal 'discovery' work for the integrated social care and health record. This means that we will be engaging with users to better understand their needs and ensure the integrated record is co-designed. [Detail of our approach to co-design can be found on our webpage](#). The work will be driven by the development of the National Care Service but working closely with others including the NHS and social care providers. We will build, test and iterate the creation of the integrated health and social care record over the coming years.
- While our work on the integrated social care and health record is at a very early stage and we are undertaking detailed work to ensure clarity, our current position is that it does not mean all information will be automatically shared – information would only be shared where there is a specific reason to do so. We are scoping an authentication and authorisation process so professionals would only have access to the information needed to discharge their duties. We will ensure individuals can access their integrated social care and health record to help inform decisions about their own care.

Are there not current barriers to join up social care and health records in terms of confidentiality?

- The National Care Service (Scotland) Bill contains two provisions to enable the nationally-consistent integrated and accessible social care and health record: giving ministers the power to establish information sharing regulations (secondary legislation) to support information sharing by and on behalf of the National Care Service and NHS, and an information standards provision so ministers can set standards on how information is collected and stored. Together these provisions are intended to enable the delivery of the integrated record which will ensure there is a consistent approach to how information is gathered and shared to support the efficiency and effectiveness of services.
- We are working to map data flows and understand current barriers to build this into our work on the integrated social care and health record. We will be working in the context of existing laws such as UK General Data Protection Regulations. Elements of the integrated social care and health record will be co-designed so we will work with users to understand the best route forward.
- UK General Data Protection Regulations (GDPR) give individuals a number of rights in relation to their personal data and the integrated social care and health record will protect your data rights ([the Information Commissioner's Office provides the full information](#))

What happens if information in the social care and health record is incorrect? Can I opt-out of having my information shared?

- UK General Data Protection Regulations (GDPR) includes the 'right to rectification' so individuals have the right to have inaccurate data corrected. The integrated social care and health record will ensure individual rights continue to be protected and as part of early planning we intend that there will be a process to request that inaccurate information to be updated. [More information on this is available via the ICO website.](#)
- UK General Data Protection Regulations (GDPR) give individuals a number of rights in relation to their personal data and the integrated social care and health record will protect your data rights ([the Information Commissioner's Office provides the full information.](#))

What guarantees will be in place to ensure there will be no misuse of information?

- There must be a lawful basis for collecting and using personal information. As part of our early planning we intend that there will be authentication, authorisation and audit processes to ensure information is used for specific purposes, for example for a social care worker or nurse where up-to-date information enables the discharge of their duties.

Regulation

What impact will the National Care Service have on the Scottish Social Services Council (SSSC)? Will there be changes to registration and qualifications?

- The SSSC will continue to operate as the independent professional regulator for the social work and social services workforce in Scotland. It will sit outside the framework for the National Care Service.
- There will be little impact. The SSSC is currently undertaking a program of work with stakeholders to look at the parts of the register and qualification levels. [Full details can be found on the SSSC website.](#)

Will the Care Inspectorate still be the independent regulator to Scottish care services?

- The Care Inspectorate will continue to operate as the independent regulator for Scotland care services. It will sit outside the framework of the National Care Service (but work in collaboration with it in relation to the delivery of social care services in Scotland).

What do Healthcare Improvement Scotland (HIS) know about care homes?

- The Bill contains a new power which would enable HIS to provide a clinical advisory role alongside CI in relation to CI inspections, for example, to provide clinical care practice and infection prevention and control advice.
- During the pandemic, a “joint arrangement” way of working was established between the Care Inspectorate (CI) and Healthcare Improvement Scotland (HIS) connected to the functions that the CI carries out under Part 5 of the 2010 Act. HIS staff worked with CI with the objective of assisting the CI with the clinical aspects of inspections of care homes (e.g. infection prevention and control) under Part 5 of the 2010 Act. This provided increased additional capacity to the CI during the pandemic.
- Whilst pandemic related issues in care homes have become less acute, it is nevertheless important that CI and HIS have no impediments to collaborative working should the need arise again in the future.

Accountability and the role of Scottish Ministers

Will Scottish Ministers personally ensure needs are met and direct care boards, or will it be civil servants doing this job?

- By establishing a National Care Service, Scottish Ministers will hold ultimate accountability for the provision of social care and will have oversight of the whole system.

Social care in the Highlands is already managed by NHS Highland and therefore under more direct ministerial direction than with Integration Joint Board’s. Is there any evidence that social care delivery is better in the highlands?

- In developing the National Care Service we want to make sure that we build on and don’t undermine good practice/progress with integration and improving the quality of care for people.
- The co-design approach will help.

- The lead agency model adopted in Highland is not directly comparable to what we are proposing through the National Care Service. Under our proposals, there will be national level support and oversight for the local care boards. The national level part of the National Care Service will produce standards and guidance, help drive improvement at national level, oversee performance locally; establish and maintain a framework for ethical commissioning; implement a complaints and redress system; and support the social work and social care workforce at national level as well as carrying out national level workforce planning. This extra support should lead to social care that is high quality, consistent and fair and meets people's individual needs in their communities.

If ministers are going to oversee care boards, will they be going out into the care sector to shadow different roles in different settings?

- Scottish Ministers frequently visit and engage directly with people accessing care and support and providing care. Such visits will continue as we establish the National Care Service. They are committed to involving people with lived experience in the design and development of the National Care Service.
- The local care boards of the National Care Service will also engage directly with people who use services and provide them. Our vision for the National Care Service is that local care services will be planned on a co-design basis, ensuring that those with the experience of the system are involved in the decision-making to deliver it.

How can we ensure that the National Care Service will be run better than the NHS, which is currently a shambles?

- The years since the Covid pandemic have been immensely challenging for our NHS and social care system, which has continued to deliver services in the face of both increased and pent-up demand, and the impact of multiples waves of Covid infection and hospitalisation.
- Through this unprecedented period, the Scottish Government and NHS staff have worked hard to continue to deliver services and ensure that people can access the care they need.
- Guiding the recovery from the pandemic, the Scottish Government's NHS Recovery plan sets out our plans for health and care over the next five years. Backed by over £1bn of funding, the plan supports inpatient, day case, and outpatient activity and the implementation of sustainable improvements and new models of care.
- We are currently developing our proposals for how the National Care Service will function. Where possible, we are doing that on a co-design basis with people who use services and deliver them, whilst also working closely with delivery partners to draw on their expertise.
- We are taking this approach to make sure that the people with the direct experience of care services are able to have their say and contribute to the design of the National Care Service, so we ensure that the system is designed with their needs in mind.

Who will become the providers of last resort if things go wrong and services are moved out of local authority control?

- We are co-designing the National Care Service to ensure that there are robust mechanisms in place in case things go wrong. If a voluntary sector or private provider fails, local care boards will be empowered to step in and take over the running of a service, as local authorities can do now.
- The National Care Service Bill provides powers for the Scottish Ministers to intervene in emergency situations or where there is service failure in order to appoint another organisation or public authority to provide that service or to transfer it to another local care board.
- The National Care Service Bill also provides for the Scottish Ministers to apply for an emergency intervention order if they believe that a service provider is not achieving an appropriate standard.

Will Scottish Ministers be able to purchase local authority buildings to continue services? What is the justification for the Bill giving ministers power to remove staff, buildings etc from councils?

- The details of how services will be delivered at local level will be co-designed.
- The National Care Service Bill provides for the transfer of staff and buildings to the National Care Service, should they need to be. Any transition to do that would be undertaken carefully and fairly to minimise the potential for any disruption on those receiving and providing services.
- Local government will be a key partner in this co-design process.

Centralisation hasn't been a success in Police and Fire. Will this centralisation be different and if so, how?

- The aim is not centralisation.
- We are designing a system that will see local care boards, working with people with lived experience, to plan and deliver care services.
- National guidance and frameworks will drive improvement across Scotland so that there are consistent, equitable and fair, high-quality community health and social care services across Scotland that meet people's needs.
- At the national level, this will establish and maintain: a framework for ethical commissioning; implement a complaints and redress system; and support the social work and social care workforce at national level. Their priority will be to work with and support local care boards and ensure that good practice is identified and shared across Scotland in an effective way.
- We intend to co-design and consult extensively with stakeholders on how best to provide an National Care Service that delivers both national consistency and local flexibility.
- Local government is an important partner in delivering social care currently and will remain so as we develop new ways to deliver improved care across the country.

Commissioning and Procurement

What does the Bill mean by ethical commissioning?

- Ethical commissioning and ethical procurement will become a cornerstone that the National Care Service will use to shape all commissioning and procurement decision making. An ethical commissioning and procurement approach will ensure full engagement with those who access social care support, those who support people to access social care support, families and friends, unpaid carers, the workforce and providers.
- Ethical standards will ensure we value and recognise the workforce by developing minimum fair work standards, terms and conditions and will contribute to climate resilience/climate change adaptation in future by taking account of the irreversible impacts of climate change.
- The National Care Service approach to ethical commissioning will support the standardisation and implementation of fair work requirements and practices, ensuring these are agreed and set at a national level and delivered locally across the country.
- Our approach to ethical commissioning will be co-designed with partners, the providers and representative users and is reliant on other related work stream areas in the National Care Service program and will be co-designed alongside access to services and their design.

How will transferring commissioning arrangements to a new body protect against contracts being won by poor providers with poorly paid and treated staff delivering sub-standard care?

- The National Care Service will set Ethical Commissioning and Procurement standards. These will include core principles regarding the treatment of those receiving care and those providing that care. Regardless of how commissioned services are secured (e.g. in-house, through grants, through procurements, or through alliances), those standard will be upheld.

Can a care board contract with a provider if they have provided the same contract within the last three years?

- There are already provisions in the procurement rules to consider continuity of care. Other than continuing with existing provisions in procurement legislation which grant public bodies the power to take account of previous poor performance or breaches of contract, there are no plans to prevent incumbent providers from re-contracting to deliver a service.

Will the new National Care Service move to a commissioning service similar to how England have set up clinical commissioning groups?

- Ethical Commissioning and Procurement standards will be co-designed.
- It would be wrong to rule an model in or out from consideration.

Is section 41 of the Bill aimed at reducing the number of profit-making providers in social care?

- Many third sector bodies make profits but require that those profits are reinvested into the organisation.

- The proposals in Section 41 are intended to allow the National Care Service to restrict some competitions to third sector organisations but not prohibit profit.

Is the encouraging of more not-for-profit organisations to tender a means to drive down the cost of care?

- The power to reserve contracts for third sector organisations (which can and often do make profits) is a standard power in European public procurement regimes.
- Third sector organisations have told us that they are often unable to compete with the private sector on the basis of cost. These powers are included in the Bill in order to ensure that, when a service is better provided by the third sector, the National Care Service is able to ensure third sector organisations can compete effectively with one-another.

If only voluntary organisations can bid for some contracts, what types of contracts are those? How is the decision made? Why, given the Feeley Report was clear about the need to raise the perception of social care support and its professionalization, would you have volunteer organizations delivering some aspects of the services?

- ‘Third Sector’ does not mean voluntary and nor does it mean unprofessional or amateur – there is no plan to reserve contracts for voluntary organisations.
- The mechanisms for determining which services will be reserved for third sector organisations is yet to be determined. Third sector organisations delivering services will be bound by the same quality and workforce standards as private or public sector organisations.

As services are to be moved out of local authorities and will no longer be bidding to provide services, does that also apply to those who have or intend to set up separate organisations to do this?

- Local authorities and their separate or ‘arms-length’ organisations will be encouraged to continue to deliver services under the National Care Service.

Improving Services

What will happen with Adult Support and Protection under the National Care Service?

- Adult Support and Protection (ASP) is a vital part of health, social work and social care processes. In the event of an National Care Service being created, we would need to ensure amendments are made to the [Adult Support and Protection \(Scotland\) Act](#) so that adults at risk of harm can continue to be fully supported and protected within the new framework that would be created.
- ASP networks and stakeholders work closely with each other to ensure services and methodologies constantly improve, through self-evaluation; training; sharing best practice and learning, and participating in national forums and networks.

How will the National Care Service ensure that everyone gets their own choice of provider?

- The need for a person-centred approach for all those seeking care and support from the National Care Service is a core principle for our work, and choice around care and support is an extension of this.
- We expect it to be reflected in our co-design work, and this engagement will be critical to establishing, through work such as the Charter of Rights, principles across all settings that enable all those seeking care and support to choose the most appropriate care and support for them.

Where is the thinking on prevention and early intervention? Is the National Care Service purely about service delivery and do the prevention approaches sit elsewhere?

- Under the National Care Service, prevention will be prioritised to make sure that people can move smoothly between different types of care and support as their needs change.
- A process of co-design will be undertaken to explore options to promote early intervention and prevention.
- The Policy memorandum which accompanies the Bill makes it clear that strategic plan has to reflect National Care Service principles one of which is that services provided by the National Care Service are to be centred around early interventions that prevent or delay the development of care needs and reduce care needs that already exist.

There is a shortage of care and support organisations and Personal Assistants currently throughout Scotland. Is there a commitment to support the development of more care and support options for communities?

- The Scottish Government is committed to improving care and support across Scotland. The Support in the Right Direction (SiRD) Programme is delivered through partnership agreements with third sector organisations in each of the 32 Scottish local authority areas. The partnership organisations provide people and their carers with independent advocacy on social care and Self-Directed Support in their local areas.
- A new team focusing on Self-directed Support Improvement has been set up with a core focus on reviewing the current Statutory Guidance.
- The PA Programme Board was set up in 2021 to fully understand the wider issues which affect PAs including recruitment and develop a work plan which sets out the necessary objectives and outcomes to recognise PAs fully as part of the social care workforce.
- There is now collaborative work underway which will support improvements for the PA workforce.

Complaints and Redress

In terms of complaints, it looks like it would be the Scottish Ministers rather than the Scottish Public Services Ombudsman (SPSO) that would oversee complaints. Is it envisaged that the SPSO will have a role?

- As public bodies, the National Care Service and its care boards will be subject to the Scottish Public Sector Ombudsman's (SPSO) complaints oversight. The SPSO's wider role in the National Care Service Complaints and Redress process will be determined through co-design of the National Care Service with people with lived experience. The provisions in the National Care Service Bill are drafted to enable the meaningful co-design of an accessible, timely and effective complaints and redress process that works for people and not the system.
- We recognise the important role of oversight bodies such as the SPSO in handling complaints about social care and community health services. As such, we will continue to work closely with bodies such as the SPSO to develop a complaints service that builds on good practice already in place, while also delivering on the outcomes of co-design with people with lived and living experience of social care.

How you plan to make complaint and compliment procedures accessible in all languages, including BSL?

- We have enshrined in the National Care Service Bill principles our commitment to ensuring that the National Care Service – as well as those providing services on its behalf – communicate with people in an inclusive way.
- As such, we will co-design the complaints service with a wide range of people with differing needs and life experiences, including people who have sensory impairments to ensure that they can receive information and express themselves in ways that best meet their individual needs.

Advocacy is surely about enabling people to ensure they are supported and have their voice heard/advocated for rather than just complaints?

- Yes. The National Care Service has equality, non-discrimination and the dignity of the individual at its heart. We recognise the importance of independent advocacy in empowering people to have their voices heard and to participate fully in decisions about their care. As such, we will develop and implement a coherent, consolidated and consistent approach to independent advocacy across the full range of the National Care Service.

Workforce and Fair Work

How will you ensure fair work is part of the National Care Service? Will my terms and conditions change if I am being employed by the National Care Service?

- The Scottish Government has a long-standing commitment to the principles of Fair Work for the social care sector. We are fully committed to improve the experience of the social care workforce as we recognise and value the work that they do. Through the National Care Service, we're going to continue improving pay and terms and conditions for workers through the introduction of national pay

bargaining for the sector. But we will not wait for the National Care Service to be established before we take action.

- In April this year, the minimum hourly rate for those providing direct adult social care increased to £10.50 per hour.

What will the Benchmarking /Job evaluation arrangements be as part of any TUPE or other process, for local authority workforce transferring over to the National Care Service?

- It is not a foregone conclusion that social care staff will need to transfer their employment from local government to the National Care Service. Depending on the outcomes of further discussion, co-design and local agreements, local authorities may continue to provide services commissioned by local care boards, or those services and staff may transfer to be provided directly by the local care board.

Why will those who are employed by the NHS not be transferred to the National Care Service, but those employed by local authorities will be transferred?

- Health Boards are already accountable to Scottish Ministers, and it is anticipated that they will continue to provide health services commissioned by local care boards. This is different from the position with social care support, where the Bill proposes to move accountability from local authorities to Scottish Ministers.

How will the National Care Service tackle resourcing issues?

- The Scottish Government's National Workforce Strategy for Health and Social Care was published on 11 March. The Strategy looks at the whole workforce journey and how we can plan for, attract, train, employ and nurture our Health and Social Care Workforce. We have worked in partnership with our co-producers COSLA and extensively engaged with stakeholders from across Health and Social Care to develop the Strategy. The Strategy outlines our shared vision for the workforce - a sustainable, skilled workforce with attractive career choices where all are respected and valued for the work they do.

How will you ensure training and development for the social care workforce?

- The National Induction Framework for new entrants into social care was launched earlier this year, and materials are available via the Scottish Social Services Council website. Further work is ongoing to develop and expand these materials to offer a robust induction framework for all social care staff, working in a variety of environments. Further, we will be working with schools, colleges and in partnership with Scottish Social Services Council and NHS Education for Scotland to develop career pathways and enhance learning and development for colleagues working in adult social care. We are taking action to improve conditions and invest in up-skilling and training for the social care workforce. This includes the development of foundation and modern apprenticeships and resources for those providing careers advice. In the medium term working with schools, colleges and partners we will develop career pathways within social

services and between social services and health, through an integrated qualification that will increase the attractiveness of the sector and provide clear routes for career progression and skills development through to advanced practice.

What action will the National Care Service take to improve the appeal, and image, of working in the care sector?

- The National Care Service aims to have a sustainable, skilled workforce with attractive career choices and fair work where all are respected and valued for the work they do. Work has already begun to invest in up-skilling and training for the social care workforce. This includes raising awareness of foundation and modern apprenticeships.

Third Sector

The Bill has no mention of the interface between care boards and the third sector. This is an important part of health and social care. Why were they omitted?

- The Bill makes some provisions in relation to care boards, including the need for public consultation on Strategic plans and ethical commissioning strategies but provides for the care boards to be fully established via secondary legislation, which can only be brought forward once the Bill has been passed.
- It sets out a framework for the changes we want to make and gives Scottish Ministers powers to work through the detail, through a co-design process with unpaid carers, people who access support and those who provide it.
- We're already engaged with Coalition of Care and Support Providers in Scotland (CCPS) as a large representative of third sector providers of social care services and many providers have already engaged with the consultation processes, including organised events and the formal written consultation. We expect to launch the co-design process imminently and are still considering the best way to further involve the wide range of organisations, including third sector organisations who have an interest in the development of the National Care Service, in the design process.

How does the Bill consider the key role of the third sector and community-based support?

- The Bill provides for the current models of securing care services to be replaced by a model of ethical commissioning and ethical procurement.
- The National Care Service will design and deliver its services locally to ensure individual needs and local circumstances are taken in account. This will include continuing to work with specialist charity and third sector providers of care services.
- Ministers also intend to use the Bill to grant the National Care Service powers to reserve some procurement exercises to third sector organisations.
- There are a range of issues matters in relation to the National Care Service local care boards that will need to be explored as part of the co-design and further stakeholder engagement process including Board Membership, ethical

commissioning and strategic planning all of which will likely consider the key role of the third sector.

Also, how do we ensure that financial support for the third sector is long-term, not short-term?

- Ethical commissioning and ethical procurement will become a cornerstone that the National Care Service will use to shape all commissioning and procurement decision making, including commissioning of third sector services.
- We are in the process of setting up a working group with key stakeholders to consider improvements that could be made to the current commissioning process and areas of good practice which could be developed.
- The National Care Service Program includes a 'Market Shaping' work stream. This project will deliver tools and techniques for securing services through contracts, grants, and alliances that are financially sustainable and that meet the needs of people receiving care and the people delivering care. Market Shaping tools and techniques will be designed with third and private sector providers of social care, commissioners, procurement experts and other stakeholders. It will consider how to improve the financial sustainability of current services, and how services that not currently offered by the market can be designed and secured in ways that providers are able to deliver.



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