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Document Title	National Care Service for Scotland Consultation – East Lothian Council Response

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Date	11/11/21

For Office Use Only:	
Library Reference	114/21
Date Received	11/11/21
Bulletin	Nov21

REPORT TO: Members' Library Service

MEETING DATE: November 2021

BY: Chief Executive

SUBJECT: National Care Service for Scotland Consultation – East Lothian Council Response

1 PURPOSE

- 1.1 To present members with the Council's response to the Scottish Government's consultation on a National Care Service for Scotland.

2 RECOMMENDATIONS

- 2.1 Members are asked to note the response to the Scottish Government's consultation on a National Care Service for Scotland as detailed in Appendix 1 along with the general comments detailed in paragraphs 3.7 – 3.64 and summarised in the Conclusions section (paragraph 3.65 – 3.72).

3 BACKGROUND

- 3.1 The Scottish Government commissioned Derek Feeley, a former Scottish Government Director General for Health and Social Care to lead an Independent Review of Adult Social Care in summer 2020. The review included a range of consultations and sought written submissions beginning in September 2020 and concluding in January 2021.

- 3.2 The Independent Review of Adult Social Care (known as the Feeley Report), which was published in February 2021, concluded that whilst there are strengths of Scotland's social care system it needs radical revision. It provided over 50 recommendations around:

- Ensuring that care is person-centred, human rights based and is seen as an investment in society
- Making Scottish Ministers responsible for the delivery of social care, with the creation of a National Care Service to deliver and oversee integration of adult social care services, improvement and best practices across health and social care services

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- Changing local Integration Joint Boards into Community Health and Social Care Boards to be the delivery arm of the National Care Service, funded directly from the Scottish Government
 - Nurturing and strengthening of the workforce
 - Greater recognition and support for unpaid carers.
- 3.3 The Scottish Government responded to the Feeley Report by publishing a consultation paper on a National Care Service in August 2021. The scope of the Government's proposals, as set out in the consultation document, which contains 95 questions, goes well beyond the Feeley Report's recommendations. In particular, the consultation suggests that the scope of the National Care Service could be extended beyond Adult Social Care to oversee social care for all age groups and a wider range of needs and services including:
- Children and young people
 - Justice Social work
 - Alcohol and Drug services
 - Social Work.
- 3.4 The original deadline for responses to this consultation on the most far reaching changes to social work services since the 1968 Social Work (Scotland) Act and, potentially, the largest re-organisation of Local Government since 1995, was 18 October 2021. The deadline was subsequently extended to 2 November 2021. The draft response was to go to the 26th October 2021 for approval. Following the postponement of the meeting, approval of the draft response was delegated to the political group leaders. The group leaders met on 28th October and approved the draft response and this covering report, which were subsequently submitted to the Scottish Government before the 2nd November deadline.
- 3.5 The council response to the consultation (Appendix 1) was prepared although it has not answered all 95 questions. Some of the binary – Yes or No answer – questions are too complex to be answered by a simple Yes or No response. Some questions are biased and leading as they are based on assuming that the National Care Service is the preferred option, or only option. The questions posed in the consultation does not invite respondents to comment on many of the critical aspects of the Feeley report that underpin the proposals put forward in the consultation paper. Many of the proposals in the consultation document have no evidential basis so make detailed response difficult. Some questions are fairly technical and require detailed knowledge of processes and practice so are best responded to by the appropriate external professional body e.g. Social Work Scotland.
- 3.6 In the absence of space in the consultation document to make general comments on the overall approach taken by the Scottish Government it is proposed that, along with the consultation response (Appendix 1), the Council should submit the general comments detailed below under the following eight headings:

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- The process (paras 3.7 – 3.11)
 - The aspirations and principles set out in the Feeley Report could be achieved without removing responsibility for Adult Social care from local government (3.12 – 3.20)
 - Financial and funding implications – including commissioning, procurement and contractual partnership arrangements (3.21 – 3.27)
 - Breaking up the whole system approach provided by Local Government (3.28 – 3.37)
 - Implications for the council workforce and support services (3.38 – 3.40)
 - The proposed scope of the National Care Service (3.41 – 3.57)
 - Failure to take account of other significant changes affecting local government and the public sector (3.58 – 3.60)
 - Local democratic accountability (3.61 – 3.64).

The Process

- 3.7 There is has been concern at the speed in which the Feeley Report was produced and at the haste with which it reported. The consultation took place within a few months of the start of the COVID pandemic whilst everyone was still in the midst of responding to the crisis. The review was completed before significant learning about adult services and the interface with universal and community services could be taken into account fully. The review’s conclusions about the deficits in adult social care do not include any consideration of the current crisis in community based services, compounded by the health and social care recruitment and retention issues being experienced country-wide.
- 3.8 The publication of the Scottish Government’s proposals and the consultation period have come at a time when local authorities, health and social care services are still fully engaged with responding to the COVID pandemic: business continuity plan arrangement remain invoked. Over the last few months senior officers across local government, health and social care services, voluntary and private sector providers and users and carers organisations have been massively stretched and under pressure due to rising case numbers, staff shortages and growing demand pressures on the NHS, care home and home care services. The breadth and fundamentally significant implications of the Feeley Report and then the Scottish Government National Care Service consultation require more time for a considered and full response to be provided. Whilst we recognise that change may be needed and should not be delayed unnecessarily, it could be argued that the Scottish Government is acting with undue haste.

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- 3.9 The full attention of the Scottish Government, local government and the health and social care sectors should be on rebuilding the capacity of the NHS and social work and care services and on the recovery from the impact of the pandemic.
- 3.10 Given the current statutory duties held by local authorities in all aspects of the proposed National Care Service and the significance of the emerging proposals in the consultation paper it is very concerning that Local Government was not involved in the development of the proposals prior to the publication of the paper. The proposal to include Children's social work Services, Community Justice, Alcohol and Drug services and social work within the scope of the National Care Service, came as a complete surprise to COSLA and national agencies such as Community Justice Scotland.
- 3.11 As is alluded to above (para 3.5) there are concerns about the consultation itself. Many of the 95 questions asked provide only a choice of retaining the current system or the one option of a National Care Service as outlined in the consultation paper. The questions introduce bias and direct respondents to support the proposed National Care Service. For example, while several questions list potential benefits from the service respondents are asked to provide dis-benefits or risks without prompted suggestions. The consultation paper provides very little information about what the proposal mean for vulnerable adults, children and families who rely on social work and social care services. It is therefore very difficult to see how the service users and their carers can respond in a meaningful way to the 95 questions in the consultation. The voices of children, vulnerable people and their carers will not be heard.

The aspirations and principles set out in the Feeley Report could be achieved without removing responsibility for Adult Social Care from local government

- 3.12 The general principles and aims of the Feeley Report – creating a more person-centred and human rights approach to adult social care, nurturing and strengthening the workforce and carers and recognising the need to significantly increase investment in, and funding for, social care – have been generally welcomed and supported. However, some of the report's recommendations raise significant concerns, in particular, those relating to the Scottish Government taking responsibility for Adult Social Care Services from local government and establishing a new National Care Service.
- 3.13 A fundamental criticism of the proposal to create a National Care Service is that there are other ways of achieving the principles set out in the report, and to deliver change, improvement and consistency than wholesale restructuring of social care. Structure is less important than the quality of leadership that is provided, the level of resourcing that is made available and the effectiveness of the relationships that lie at the heart of delivering services to improve the quality of life of vulnerable people.

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- 3.14 The Convention of Scottish Local Authorities has stated: *“COSLA is clear that change is needed and that the service user must come first. Reforming how we deliver our health and social care services offers an opportunity to change our focus and position health and social care as part of a wider approach to improving public health and community wellbeing.*

“By embracing this approach, and by providing the necessary investment to tackle the long standing and chronic underfunding that exists in social care, we can take meaningful strides in addressing the challenges that continue to confront our health and social care system every year. This is an opportunity that we have to take and it is disappointing that the proposals set out by the Scottish Government do the opposite and will only serve to impact on the ability to deliver a joined-up approach across all of the Local Government services that impact on a person’s health and wellbeing.”

- 3.15 The creation of a new national QUANGO will require significant resourcing and will lead to years of uncertainty and anxiety within the workforce and possibly also amongst service users and carers. It will also risk loss of momentum and progress with existing multi-agency collaborative improvement programmes. The complexity of transferring responsibility for one of Local Government’s largest, most complex and important services to a new national agency cannot be over-estimated. Previous structured reforms to deliver a single agency has not been able to be undertaken without significant cost, and significant staff resourcing, and there is no evidence that this singular source has delivered better outcomes for our users of the system.
- 3.16 The Feeley Report, and the Scottish Government’s consultation paper, make a significant leap between a description of what is not working well and the conclusion that a major reorganisation of social, care and local government is required. The Scottish Government consultation paper compounds this failing by proposing to extend the scope of the proposed National Care Service without providing a valid justification or clear evidence base for why this conclusion has been arrived at, or any detailed analysis of the options that were considered and no evidence of having engaged with or consulted key stakeholders, service users or carers.
- 3.17 It is possible to achieve the aspirations set out in the Feeley Report, and possibly those of the Scottish Government, without the wholesale upheaval to Social Work services, Local Government and Health and Social Care structures that would be required to create the proposed National Care Service. Given the work over the last six years to develop locally based partnership working through Integration Joint Boards and Health and Social Care Partnerships, within the governance model established by the Scottish Government, the implementation of further improvements, service redesign and embedding a person centred and human rights approach, will be quicker, less disruptive and more effective without further structural upheaval.

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- 3.18 There is no guarantee that a National Care Service will resolve one of the main criticisms of the current model of care – that there is inconsistency in the quality and level of care provided – the so-called ‘postcode lottery’. Indeed the National Health Service on which the National Care Service is being modelled, is often criticised for different levels and quality of health care and service between different Health Boards. A national service does not in itself remove differences in performance and levels and quality of service at the local or delivery point level.
- 3.19 Great progress has been made in integrating health and social care services since the Public Bodies (Joint Working) (Scotland) Act 2014 was introduced. An honest conversation involving all relevant partners about what is preventing the current model based on Adult and Children’s Social Work, Integration Joint Boards and Health and Social Care Partnerships from delivering the aspirations and outcomes we all desire from it, is required.
- 3.20 The Feeley report does make a case for the need to address concerns about differing standards and quality of care across the country (in short the ‘postcode lottery’ for care) and for improvements in areas such as workforce planning and record and data sharing. Therefore there is some justification for considering the roles and responsibilities of national agencies and specifically defining improvements can be achieved, without creating a new national agency, with functions and services based around:
- Standards
 - Improvement and Innovation
 - Quality Assurance and Performance scrutiny and reporting
 - Workforce Planning/ Training and Development
 - Procurement and national commissioning and contracts for some services
 - Development of a single Health and Social Care record and use of aggregate data and systems for policy development and planning.

Financial and funding implications of the proposals – including commissioning, procurement and contractual partnership arrangements

- 3.21 There are significant questions about how the National Care Service and other proposals in the consultation paper will be funded. COSLA has long called for fair funding for Local Government, highlighting the implications of reduced Council budgets to the delivery of essential public services. Between 2010/11– 2019/2020, total revenue funding for Local Government fell by 7.2% in real terms. Despite this challenging context, Local Government has continued to prioritise spending in the areas covered by the proposed National Care Service. In this time, adult social

care has seen a real terms increase of 14.8%, children's services have seen a real terms increase of 9.4% and criminal justice social work has seen a real terms increase of 5.7%. The proposed centralisation of services, as set out in the consultation, does not provide an immediate solution to the underlying funding and resourcing/capacity issues faced by Local Government and specifically Adult and Children's Care services.

3.22 Pressure on budgets and staffing has required care services to be rationed through the use of a prioritisation of need and eligibility criteria – in reality that pressure has increasingly meant only support for critical and substantial need and very limited capacity to focus on lower tier preventative support. Increasingly support for service users and carers has been focussed at higher end needs or at points of crisis. Support to lower tier preventative need has come from community service e.g. welfare services, community services, housing services, libraries, third sector/ voluntary services. This has been made possible due to the close collaboration over locality based multi-agency service planning i.e. social care services engage with other professionals/services to pass-on early intervention and prevention needs/ clients.

3.23 No costings are provided in the consultation paper relating to the development of the proposed National Care Service or with regards to how it would be funded. Whilst we fully expect a detailed financial memorandum to be issued if a Bill is presented to Parliament, it is very difficult to consider and respond to the consultation without any financial information. A considered response would require detailed information on:

- the modelling of volume or costs of demand for various proposals presented
- how the additional investment in social care will be funded
- a medium to longer term financial strategy to ensure that the required budgetary provision is provided on a recurring basis and maintains pace with demand for the new service offers proposed in the Feeley Report and consultation paper
- the relationship between the funding for the National Care Service and the universal service provision proposed in the consultation paper with the local government grant settlement. It should be noted that Adult and Children's social work and social care are not fully funded through the Scottish Government grant settlement. Local authorities can, and do, contribute to, and in effect subsidise, these services to reflect local priorities. There is no reference in the consultation paper to whether/ how the contribution to these services from local authority general funds has been incorporated into the financial modelling for the proposals in the paper

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- the VAT status of the proposed Community Health and Social Care Boards (CHSCBs), which is critical given the experience of the Scottish Police Authority and Scottish Fire and Rescue Service and the proposed commissioning role of the new Boards
 - the proposed financial arrangements for the National Care Service and the CHSCBs relating ability to borrowing, hold reserves; audit; financial regulations; etc.
- 3.24 The wholesale transformation and reorganisation of such complex services as Adult Social Care and Children’s Social Work Services and their integration into a new national service will come at a major cost in both finance and staff resources. Therefore it is concerning that the consultation paper does not provide any indication of the potential cost of, and resources required to, manage the transition from the current position to the new model. The consultation paper does not address the implications of disentangling the costs of social work and social care services from Local Government and of then funding and resourcing the establishment of a National Care Service. Currently, all of the support service functions, such as Finance, IT, Legal, Procurement and HR, that are required for social work and social care services are carried out by local authorities and NHS Boards with no charges passed to IJB’s to deliver these services. Should we move to a national and holistic care service consideration would need to be given as to how these support services would be resourced, without significant detriment to current support service provision.
- 3.25 The conclusions and recommendations of the Feeley Report and the consultation paper are based on the need to address a perceived weakness in the current model of social care provision – local variations in quality and quantity of social care services – the so-called ‘postcode lottery’. They suggest that this issue can be addressed through removing eligibility criteria.
- 3.26 The aspiration for social workers and other professionals to be able to focus on the rights of individuals “without being hampered” by considerations of eligibility and cost are laudable aspirations; but there is not an infinite level of investment that can be made to meet the demands made by service users and carers. The consultation paper does not provide any information on the modelling around demand, public expectation and affordability of a universal, demand led model of social care provision. Given the proposals to remove the system of eligibility criteria and that early intervention and prevention be significantly improved, what criteria will the National Care Service apply to assess need and apportion resources?
- 3.27 The proposal to create the new National Care Service is predicated on significantly higher levels of funding for social care than is currently provided. However, the proposed investment in increasing access to social care services could be made without going through the legislative

and disruptive structural change and potential risks to service users that lie behind the consultation paper's proposals.

Breaking up the whole system approach provided by local government

- 3.28 Bringing all social work services under the control of a single National Care Service could bring about greater synergy and closer working between different parts of social work. However, there are very significant risks in breaking up the existing 'whole system approach' that is provided through social work being part of local government. The centralisation of responsibility and services under a National Care Service also removes the local approach to service delivery which is critically required to deliver a holistic approach to care services and integrate this wider within a wholesale and local approach to deliver improved outcomes for those who need and use care such as Housing, Education, and community services. Centralisation also puts at risk the effective collaboration and shared leadership that has been developed through Community Planning, Community Justice, Children's Services and Public Protection Partnerships, and local community capacity building achieved through multi-agency locality planning with, and in, targeted communities.
- 3.29 The importance of close working between NHS and local government which has been supported by the integration of health and social care within local government has been evidenced during the last 18 months. This relationship has played a key and important role in the response to the COVID pandemic. The pandemic has also shown the importance of the links between local authorities and their communities and local third sector organisations in providing the community resilience which is so vital during emergencies. The Scottish Government has relied on Local Government, which in turn relied on its close ties with communities and the third sector to deliver crucial services during and after lockdowns. There is a grave risk that these links and close working relationships would be dissipated or even lost if responsibility for all social work and social care services is centralised within a National Care Service.
- 3.30 The whole system approach to services for people who rely on social work and social care increasingly extends also to assets. The integrated and holistic approach to assets is exemplified in East Lothian by the new Wallyford Learning Campus, integrating service delivery across education, social care and community services, which meets local needs and priorities in a holistic way. Further centralisation as is proposed in the National Care Service consultation paper would make such a locally driven and funded, integrated approach to assets more difficult.
- 3.31 Transferring responsibility for procurement of care services risks breaking the link between local authorities and local private sector and voluntary sector providers. Smaller scale, local private and voluntary sector providers will find it difficult to compete against national charities and, national and international private sector providers for national

contracts and frameworks. Co-production and community wealth building will be much more difficult to achieve via a centralised, national procurement and service delivery model.

- 3.32 The Convention of Scottish Local Authorities (COSLA) has highlighted the concern that the Scottish Government's proposals put at risk the vital links that exist across the essential services that many of our most vulnerable people rely on every day.

"Many of the people who access the services included in the Scottish Government's proposals also rely on other services delivered by Local Government, including housing, education, welfare advice and employment support. These essential services cannot be seen in isolation, they work best when they are connected. It is vital that the links between them are preserved if we are to provide the most effective support for people who rely on these essential services the length and breadth of Scotland each and every day."

- 3.33 Broader community supports such as library services, community services, sport and leisure services, third sector services and local community networks of support are the foundation stones for community capacity building and resilience, essential components to reducing the demand on social care services through early intervention and prevention.

- 3.34 Removing the statutory responsibility for social work services from local government would impact on the ability to deliver the joined-up approach across the essential services that impact on a person's health, safety and wellbeing. The services proposed to be included in the National Care Service have close ties and linkages with council services and partnerships such as housing, employability, education, public safety and public protection. The removal of the governance of public protection from local authority Chief Executive Officers to Scottish Ministers, which is implied in the Scottish Government's proposal, would create significant risks for accountability in keeping local people safe.

- 3.35 In its 'Education Governance – Next Steps' document the Scottish Government has highlighted the need for support for children, young people and families to be holistic and that decisions about children should be taken as close to them as possible by people who know them. It is therefore very difficult to see how a National Care Service would achieve this intent and ensure much of the significant joint working across universal services continues.

- 3.36 From East Lothian Council's perspective, there are concerns about how the transfer of all social work services to the proposed National Care Service might impact negatively on the positive developments that have been made to break down the silos between these services and other services. The creation of a fully integrated social work service within a National Care Service threatens the significant progress that has been made in the working relationships between Children's social work and Education services and employability; between adult care services and

housing services; and, between adult and children's services and other services that are supporting planned improvement work such as system replacement/ upgrade and strategic transformation of services for children.

- 3.37 It is concerning that neither the Feeley report nor the Scottish Government consultation paper make any reference to the role of Community Planning Partnerships, Community Justice Partnerships and other multi-agency partnerships that are crucial to developing joint approaches and working across the public, voluntary and commercial sector. If local government's statutory duties over social work services, including children's social work and community justice are transferred to the National Care Service how are these local partnerships to function and what role will they have?

Implications for the council workforce and support services

- 3.38 The proposals contained in the Feeley Report and the Scottish Government's consultation potentially have significant implications for large parts of the local government workforce. The consultation paper is not explicit regarding the future employer status of staff working in social work and whether they would be TUPE transferred to the National Care Service or the proposed Community Health and Social Care Boards (CHSCBs). Further clarity is required to avoid any unnecessary uncertainty about this and other issues. For example:

- Local authorities have 32 individual sets of terms and conditions of service; how would these be harmonised across the National Care Service or CHSCBs?
- Will staff transferred to CHSCBs be on local government, NHS or civil servant terms and conditions and collective bargaining arrangements?
- If CHSCB staff remain under local government will their Terms & Conditions and salaries be set nationally and who would negotiate with employees? How would pay equality (and risks) be impacted?
- If services remain within local authority control (e.g. Care Homes) and the CHSCB decides not to commission those services would the redundancy and other associated costs sit with the local authority, CHSCB or National Care Service/ H&SCPs?
- If Justice Social Work remains in limbo until a decision is taken whether to transfer this service to the National Care Service would these services and staff be transferred to CHSCBs or remain with local authorities?
- What posts (e.g. senior officers, strategic planning, commissioning) and how many staff who currently work for the Health and Social Care Partnerships but are employed by NHS or local government will be TUPE transferred to CHSCBs and on what terms and conditions?

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- 3.39 The consultation paper displays a limited understanding of the breadth of the social work role. The proposals for a National Care Service run the risk of reducing the role of social worker to assessor, and diluting other fundamental aspects of the role: public protection; management of risk; enabling rights and capabilities; early intervention and prevention, social wellbeing and social justice.
- 3.40 The proposal to create the National Care Service as set out in the consultation paper will have significant detrimental implications for local authority services well beyond social work services. For example, services such as Facilities Management (catering and cleaning), Transportation, and all 'support services', such as Finance, Administration, Legal, Human Resources, Payroll, and IT, provide services to social work. If the National Care Service and CHSCBs service commission services such as catering, cleaning and transport from other providers and create in-house 'support services' this could lead to significant job losses within local government; unless all affected employees are transferred under TUPE arrangements.

The proposed scope of the National Care Service

- 3.41 East Lothian Council does not support the proposal to transfer responsibility for Adult Care Services from local government to the Scottish Government and a National Care Service.
- 3.42 The Scottish Government consultation proposals for a National Care Service go well beyond the scope set for the Independent Review of Adult Social Care and the recommendations made in the Feeley Report. If the Government's intention was to consider the future of all social work services, including Children's Services and Community Justice, these should have been included in the scope of the Review so that they could have been considered together in recognition of the complex dynamic relationships between them.
- 3.43 The inclusion of community justice, children's social work and alcohol and drugs service in the Scottish Government's proposals without any prior examination of evidence relating to these complex fields is highly concerning. Their inclusion at this 'late stage' with all the associated concerns about the future of these services and staff risks destabilising staff and services.
- 3.44 East Lothian Council does not support the proposal to extend the scope of the National Care Service to include Children's Services, Community Justice, Alcohol and Drugs services and all social work functions within the scope of the proposed National Care Service.
- 3.45 The Council supports the view expressed by COSLA that the lack of evidence and data to justify the inclusion of Children's Services in a National Care Service is very concerning particularly given the fact that no account is taken of what the proposed changes would mean for children, young people and their families.

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- 3.46 Children's Services were not included in the Independent Review carried out by Feeley so, unlike Adult Social Care, no analysis is available to support assumptions about the current model not working well. Nor do we have analysis of how bringing Children's Services into the National Care Service would actually benefit children, young people and families supported by, and receiving, Children's Services. The voices of our communities using these services is missing from the consultation paper's proposals – a glaring omission given the adoption of the United Nations Convention of the Rights of the Child and the commitments made through The Promise.
- 3.47 Expanding the scope of the recommendations of the Feeley report to include Children's Services in a National care Service is contrary to the principles of GIRFEC and locality multi-agency planning for vulnerable children and families. There is no correlation between the consultation paper's proposals and the outcome of The Promise. The Promise requires transformational change and we are already over half way through year one of the 21-24 Plan. The required transformation straddles a ten-year plan against which we are making significant progress. Consideration needs to be given to the impact the creation of a National Care Service that includes Children's Services, and the risks associated with this, will have on our ability to meet the expectations of The Promise, and to bring about transformational change within the required timescales.
- 3.48 East Lothian Council is concerned that the centralisation of all social work and social care services within a National Care Service and Community Health and Social Care Boards presents a real risk that local need, local context and local initiatives could be lost. We continue to support local decision making about the most effective service model, based on, and reflecting, local circumstances, needs and priorities. East Lothian Council took the considered view not to include Children's services within the East Lothian Health and Social Care Partnership and recently moved Children's Services into a combined Education and Children's Service. This decision was taken because we see the value of even closer working between these two aligned services in order to achieve the desired outcomes to meet the principles of Getting It Right For Every Child (GIRFEC).
- 3.49 A National Care Service may bring some advantages in terms of bringing social work and social care services together. Integrating Adult and Children's social work services could bring about a more consistent approach in terms of a cradle to grave ethos of social work/ social care service provision. However, careful consideration must be given also to the potential disconnect this model would have from early years and education services and other Local Government services, such as housing and community services, and the impact this would have on children's services social work.
- 3.50 Thought also needs to be given to where council owned/ registered regulated services such as Fostering, Adoption and Children's Homes

would sit. The consultation paper is not clear about whether these services would move to the National Care Service or be commissioned from the local authority. There would be significant risk to disconnecting these services in terms of culture and ambitions as well as the impact on budget.

- 3.51 Concerns that have been expressed over the lack of analysis, evidence and engagement on the proposals relating to Children's Services also hold for Community Justice and Alcohol and Drugs services. Therefore East Lothian Council does not support the proposal to include these services in the National Care Service.
- 3.52 The functions of Justice Social Work should not be shoe horned into the new service. While there is a component of social and health care to working with offenders and ex-offenders, there are other matters such as, housing, employability, community support, and welfare advice, along with the rehabilitation elements of the justice and community justice system which do not sit together with social work. That is why we have Community Justice Partnerships. Transferring responsibility for Justice Social Work from Local Government to a National Care Service and Community Health and Social Care Boards would add another unnecessary layer to the partnership working that is required to achieve the desired outcomes in relation to reducing re-offending.
- 3.53 The implications of any proposed transfer of Justice Social Work to a National Care Service would mean that critical services provided by local authorities for the effective community reintegration, and rehabilitation of, offenders would be disrupted and remain disjointed. In addition, there would be considerable disruption to the workforce at a time when they are trying to deal with the aftermath of, and recover from, COVID.
- 3.54 The direction to date has been to increase local ownership of the Community Justice agenda, and the recent changes with the creation of Community Justice Scotland and Community Justice Partnerships with Local Community Justice Outcome Improvement Plans are still bedding in. The potential incorporation of Justice Social Work into the proposed National Care Service will seriously disrupt and constrain the policy work that is needed to continue making progress with this agenda.
- 3.55 This latest proposed reform for Community Justice comes at a time when we still are working our way through the last reform. If it were implemented, it would very likely constrain future service development and disrupt the workforce over the period of change.
- 3.56 The Justice Social Work proposals are out of step with current developments on community justice, this includes a new community justice strategy consultation that is being developed by the Scottish Government, the wider National Justice Strategy and the proposal for new legislation on Bail and Release included in the Programme for Government.

3.57 East Lothian Council has concerns about the proposal to extend the scope of the National Care Service to include all social work. The consultation paper seems to conflate social care and social work. Any future plans needs to be really clear about the role and statutory duties of the registered social worker. Current legislation makes Chief Social Work Officers (CSWO) accountable to Council Chief Executives. The consultation makes no reference to the role of the CSWO in providing assurance of the quality and standards of the professional social work role. Would there still be a role for a Chief Social Work Officer and would this statutory post sit in local authority or the Community Health and Social Care Board. It is not clear if the role can be delivered within this structure.

The proposals do not take account of other significant changes affecting health and social care and local government

3.58 The consultation does not reflect or recognise the major changes or reviews that are currently on the agenda for local government. These include the Local Governance Review, implementation of The Promise, the review of Children's Hearing System and ongoing major service re-design such as Rescheduling Urgent Care (RUC), Technology Enable Care (TEC), intensive rehabilitation and reform of Adults with Incapacity.

3.59 East Lothian Council is progressing a major Transforming Children's Service programme that will have fundamental implications for how we deliver services for vulnerable families and children. This will be impacted by the uncertainty created by the proposal to include Children's Services within the scope of the National Care Service.

3.60 There is significant risk that the extensive and continuous change required to transfer responsibility for a large area of local government responsibility and bring about the creation of the National Care Service as proposed by the Scottish Government would itself become a barrier to public service improvement. The uncertainty that is being created by the consultation carries a major risk that current planning and investment in change will slow down or disappear totally.

Local Democratic Accountability

3.61 The formation of the National Care Service, as it is currently outlined, would have considerable implications for local decision making. The proposals appear to stand contrary to the outcomes of the Local Governance Review, the four pillars set out by the Christie Commission and the recent legislation on the European Charter of Local Self Government. How can taking responsibility for all social care services and social work from local government align with the localism agenda – ensuring services are designed and delivered as locally as possible – which the Scottish Government is meant to support?

3.62 Concerns about the impact of the Scottish Government's proposals on local democratic accountability were succinctly summarised by Stirling University academic Professor David Bell at a recent meeting of

Holyrood's Health Committee. He expressed the view that the Scottish Government's plans for a National Care Service would "further deplete" the powers of local government, further centralising responsibility.

"It seems to me that there is an issue around attracting people into local government both in terms of professionals and elected members and as the functions are drawn away the attractiveness of that route seems to me to be potentially declining and would need some further investigation. We are a relatively centralised country and further centralisation always seems like an issue that ought to be considered very carefully on democratic grounds."

- 3.63 Transferring responsibility for social work and social care services from local government risks creating a significant democratic deficit. Scottish Ministers, a National Care Service and unelected Community Health and Social Care Boards would be remote from local service users and dissipate local democratic accountability around an essential public service.
- 3.64 It seems paradoxical that at a time when the Local Governance Review, which is being supported by the Scottish Government is trying to embed the Christie Commission principles, extend the 'localism' agenda and promote devolution of decision making this consultation paper goes in the opposite direction.

Conclusions

- 3.65 East Lothian Council has significant concerns about aspects of the process behind the development of the consultation on the National Care Service. These include, the haste with which the proposals in the National Care Service consultation have been brought forward; the lack of engagement with Local Government and other key stakeholders in the development of the proposals to extend the scope of the proposed National Care Service; and the biased way in which the consultation questions have been set.
- 3.66 East Lothian Council does not support the proposal to transfer responsibilities for social work and social care services from Local Government to the Scottish Government and the proposed National Care Service. The aspirations to develop a person centred, human rights based could be met without the wholesale re-organisation of social work services proposed.
- 3.67 We are concerned at the lack of detail about funding and financial matters in the consultation paper.
- 3.68 The proposals to transfer responsibility for all social work and social care services from Local Government to the Scottish Government and a National Care Service risk the progress that has been made in developing Health and Social Care Partnerships. The proposals risk undermining the close working relationships between social services and other council services such as housing, education and community

services and the partnerships with other sectors that are crucial to meeting the needs of vulnerable people who rely on these services.

- 3.69 East Lothian Council is concerned at lack of detail in the consultation paper on the possible implications of its proposals for the Local Government workforce and services that support social work and social care.
- 3.70 East Lothian Council does not support the proposal to include Children's Services, Justice Social Work, Alcohol and Drugs services and all social work within the scope of the proposed National Care Service.
- 3.71 The consultation paper does not reflect or recognise the major changes or reviews that are currently on the agenda for local government such as the Local Governance Review, implementation of The Promise, the review of Children's Hearing System and ongoing major service re-design proposals.
- 3.72 East Lothian Council has a fundamental concern that the proposals contained in the consultation paper are based on centralisation rather than localism. The transfer of responsibility for all social work and social care services from Local Government to the Scottish Government and a National Care Service and unelected Community Health and Social Care Board erodes local democratic accountability.

4 POLICY IMPLICATIONS

- 4.1 There are no policy implications from this report. However, if the proposals contained in the National Care Service consultation are implemented they would constitute the biggest change to social work services since the 1968 Social Work (Scotland) Act and result in the largest re-organisation of Local Government since 1995. They would have far reaching policy implications for the Council which would need to be the subject of future reports.

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 The subject of this report does not directly affect the wellbeing of the community or have a significant impact on equality, the environment or economy.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – none.
- 6.2 Personnel – none.
- 6.3 Other – none.

7 BACKGROUND PAPERS

7.1 Draft East Lothian Council Response to the National Care Service Consultation

AUTHOR'S NAME	Judith Tait
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DATE	2 nd November 2021



A National Care Service for Scotland - Consultation

RESPONDENT INFORMATION FORM

Please Note this form **must** be completed and returned with your response.

To find out how we handle your personal data, please see our privacy policy:
<https://www.gov.scot/privacy/>

Are you responding as an individual or an organisation?

- Individual
 Organisation

Full name or organisation's name

East Lothian Council: Please read in conjunction with cover report submitted by email

Phone number

Address

John Muir House, Brewery Park, Haddington, East Lothian

Postcode

EH413HA

Email

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name
 Publish response only (without name)
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Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes

No

Individuals - Your experience of social care and support

If you are responding as an individual, it would be helpful for us to understand what experience you have of social care and support. Everyone's views are important, and it will be important for us to understand whether different groups have different views, but you do not need to answer this question if you don't want to.

Please tick all that apply

I receive, or have received, social care or support

I am, or have been, an unpaid carer

A friend or family member of mine receives, or has received, social care or support

I am, or have been, a frontline care worker

I am, or have been, a social worker

I work, or have worked, in the management of care services

I do not have any close experience of social care or support.

Organisations – your role

Please indicate what role your organisation plays in social care

Providing care or support services, private sector

Providing care or support services, third sector

Independent healthcare contractor

Representing or supporting people who access care and support and their families

Representing or supporting carers

Representing or supporting members of the workforce

Local authority

Health Board

Integration authority

Other public sector body

Other

Questions

Q1. What would be the benefits of the National Care Service taking responsibility for improvement across community health and care services? (Please tick all that apply)

- Better co-ordination of work across different improvement organisations
- Effective sharing of learning across Scotland
- Intelligence from regulatory work fed back into a cycle of continuous improvement
- More consistent outcomes for people accessing care and support across Scotland
- Other – please explain below

Q2. Are there any risks from the National Care Service taking responsibility for improvement across community health and care services?

- Moving responsibility for improvement away from the regulators – the Care Inspectorate and HIS – to CHSCBs and providers may reduce independent scrutiny and oversight of quality and performance of services. Lack of independence for the QA functions of key partners, and potentially those represented on the IJB/ CHSCB are responsible for the QA of directly provided services. The proposal provides no assurance of objectivity or independence.
- Adult social care services do not operate in a vacuum / in isolation from wider universal and community services. The proposal fails to recognise the relationship between the services and functions that will not sit within “adult social care” sphere.
- The points of quality and choice appear to have been conflated where these are separate aspects of improvement. Whilst a national approach may deliver some of the benefits outlined, there is a risk that the ability for each CHSCB to be locally responsive and accountable is diminished. Particularly, since the local democracy foundation upon which Local Authority’s function will be eroded in preference of a centralised system based on political agendas set nationally.
- The argument for a national care service is fully demonstrated as a means of ensuring equity of access/ quality improvement agenda/ national body for standards and training etc. The Feeley report did not evidence how the centralisation of all these issues will deliver improved and consistent access and/or quality of social care that is appropriate and proportionate to assessed local need.

Access to Care and Support

Q3. If you or someone you know needed to access care and support, how likely would you be to use the following routes if they were available?

Speaking to my GP or another health professional.

Not at all likely	Unlikely	Neither likely nor unlikely	Likely	Very likely

Speaking to someone at a voluntary sector organisation, for example my local carer centre, befriending service or another organisation.

Not at all likely	Unlikely	Neither likely nor unlikely	Likely	Very likely

Speaking to someone at another public sector organisation, e.g. Social Security Scotland

Not at all likely	Unlikely	Neither likely nor unlikely	Likely	Very likely

Going along to a drop in service in a building in my local community, for example a community centre or cafe, either with or without an appointment.

Not at all likely	Unlikely	Neither likely nor unlikely	Likely	Very likely

Through a contact centre run by my local authority, either in person or over the phone.

Not at all likely	Unlikely	Neither likely nor unlikely	Likely	Very likely

Contacting my local authority by email or through their website.

Not at all likely	Unlikely	Neither likely nor unlikely	Likely	Very likely

Using a website or online form that can be used by anyone in Scotland.

Not at all likely	Unlikely	Neither likely nor unlikely	Likely	Very likely

Through a national helpline that I can contact 7 days a week.

Not at all likely	Unlikely	Neither likely nor unlikely	Likely	Very likely

Other – Please explain what option you would add.

--

Q4. How can we better co-ordinate care and support (indicate order of preference)?

- Have a lead professional to coordinate care and support for each individual. The lead professional would co-ordinate all the professionals involved in the adult's care and support.
- Have a professional as a clear single point of contact for adults accessing care and support services. The single point of contact would be responsible for communicating with the adult receiving care and support on behalf of all the professionals involved in their care, but would not have as significant a role in coordinating their care and support.
- Have community or voluntary sector organisations, based locally, which act as a single point of contact. These organisations would advocate on behalf of the adult accessing care and support and communicate with the professionals involved in their care on their behalf when needed.

These options (Q4) are an unhelpful way of separating the issues. What is needed is a combination of enhanced clarity amongst professionals involved that could be achieved by a shared record. Case load management for professional staff at a level that facilitates good conversations and person-centred communication would be a preferred approach.

Support planning

Q5. How should support planning take place in the National Care Service? For each of the elements below, please select to what extent you agree or disagree with each option:

a. How you tell people about your support needs

Support planning should include the opportunity for me and/or my family and unpaid carers to contribute.

Strongly Agree	Agree	Neither Agree/Disagree	Disagree	Strongly Disagree

If I want to, I should be able to get support from a voluntary sector organisation or an organisation in my community, to help me set out what I want as part of my support planning.

Strongly Agree	Agree	Neither Agree/Disagree	Disagree	Strongly Disagree

b. What a support plan should focus on:

Decisions about the support I get should be based on the judgement of the professional working with me, taking into account my views.

Strongly Agree	Agree	Neither Agree/Disagree	Disagree	Strongly Disagree

Decisions about the support I get should be focused on the tasks I need to carry out each day to be able to take care of myself and live a full life.

Strongly Agree	Agree	Neither Agree/Disagree	Disagree	Strongly Disagree

Decisions about the support I get should be focused on the outcomes I want to achieve to live a full life.

Strongly Agree	Agree	Neither Agree/Disagree	Disagree	Strongly Disagree

c. Whether the support planning process should be different, depending on the level of support you need:

I should get a light-touch conversation if I need a little bit of support; or a more detailed conversation with a qualified social worker if my support needs are more complex.

Strongly Agree	Agree	Neither Agree/Disagree	Disagree	Strongly Disagree

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If I need a little bit of support, a light-touch conversation could be done by someone in the community such as a support worker or someone from a voluntary sector organisation.

Strongly Agree	Agree	Neither Agree/Disagree	Disagree	Strongly Disagree

However much support I need, the conversation should be the same.

Strongly Agree	Agree	Neither Agree/Disagree	Disagree	Strongly Disagree

Light touch and/or more detailed support planning should take place in another way – please say how below

<p>Support planning</p> <p>There is a significant contradiction in the options proposed. There are two elements, as assessment is defined in statute and based on need, whilst support planning, whilst linked to SDS legislation and guidance, is based on assets, strengths and outcomes. In line with social work values, decisions based on personal outcomes are what staff strive to achieve. Whilst self-directed support has helped to achieve a degree of success for younger adults the challenges have been greater for older adults. Resources are set up to deliver time and task and the resource to follow up to deliver outcome- focussed approaches is limited.</p> <p>In Community led support services, people needing support can already access assistance in considering and sourcing and signposting to what may assist them in maintaining their independence and autonomy, thus preventing the need for formal social work intervention.</p> <p>Within any nationalised approach there would need to be significant review of competing and conflicting legislation and guidance to achieve consistency and equity in support planning in Scotland. Application of eligibility criteria is subjective and contrary to the principles of self-determination.</p>
--

Q6. The Getting It Right For Everyone National Practice model would use the same language across all services and professionals to describe and assess your strengths and needs. Do you agree or disagree with this approach?

Agree

Disagree

Please say why.

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Q7. The Getting It Right for Everyone National Practice model would be a single planning process involving everyone who is involved with your care and support, with a single plan that involves me in agreeing the support I require. This would be supported by an integrated social care and health record, so that my information moves through care and support services with me. Do you agree or disagree with this approach?

Agree

Disagree

Please say why.

Q8. Do you agree or disagree that a National Practice Model for adults would improve outcomes?

Agree

Disagree

Please say why.

- It may do, but not without a full understanding of what is required to deliver this and that structural change does not ensure successful outcomes for people. Organisational and professional culture and collaborative leadership is essential to achieve and sustain improved outcomes through multi-disciplinary working.
 - There will be challenges where there is significant safety planning / legislation required to keep young people and adults safe.
 - Implementing GIRFEC has taken many years and is still variable. This will require a comprehensive implementation plan with realistic timescales and full buy-in across all disciplines.
 - Using the same language requires the same understanding of risk and need, rights and choices – all the elements that Self-Directed Support strategy, policy and legislation set out to achieve but has not. The Feeley report did not engage with services who have experience of the levers and challenges of implementing GIRFEC.
 - How does this fit with eligibility criteria? The aspirations of the Feeley Review of moving to a needs-based approach is laudable but there is no detail or evidence about how this will be achievable within what will inevitably be finite resources.

Right to breaks from caring

Question

Q9. For each of the below, please choose which factor you consider is more important in establishing a right to breaks from caring. (Please select one option from each part. Where you see both factors as equally important, please select 'no preference'.)

Standardised support packages versus personalised support

<input checked="" type="checkbox"/> Personalised support to meet need	<input type="checkbox"/> Standardised levels of support	<input type="checkbox"/> No preference
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A right for all carers versus thresholds for accessing support

<input checked="" type="checkbox"/> Universal right for all carers	<input type="checkbox"/> Right only for those who meet qualifying thresholds	<input type="checkbox"/> No preference
--	--	--

Transparency and certainty versus responsiveness and flexibility

<input type="checkbox"/> Certainty about entitlement	<input type="checkbox"/> Flexibility and responsiveness	<input type="checkbox"/> No preference
--	---	--

Preventative support versus acute need

<input type="checkbox"/> Provides preventative support	<input type="checkbox"/> Meeting acute need	<input type="checkbox"/> No preference
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Q9. Of the three groups, which would be your preferred approach? (Please select one option.)

- Group A – Standard entitlements
- Group B – Personalised entitlements
- Group C – Hybrid approaches

Please say why.

A hybrid approach would enable a level of certainty around what is available with the opportunity to enhance to a more personalised approach. This is however subject to the resource available.

The Carers Act is a good piece of legislation but does still not address the whole story. Carers can now apply for an assessment in their own right but most just want

a break and that means that this is provided for the cared for person. Form filling should be minimised.

COVID 19 has highlighted the lack of provision for allowing stressed and exhausted carers to have a break and this is forcing change on a local level (provision and future commissioning/contracting). The focus needs to be on local resources which meet local needs. How would a NCS deliver this as each area is so very different in what is needed and how local communities/partnerships can respond?

Using data to support care

Questions

Q10. To what extent do you agree or disagree with the following statements?

There should be a nationally-consistent, integrated and accessible electronic social care and health record.

Strongly Agree	Agree	Neither Agree/Disagree	Disagree	Strongly Disagree

Information about your health and care needs should be shared across the services that support you.

Strongly Agree	Agree	Neither Agree/Disagree	Disagree	Strongly Disagree

Q11. Should legislation be used to require all care services and other relevant parties to provide data as specified by a National Care Service, and include the requirement to meet common data standards and definitions for that data collection?

Yes

No

Please say why.

Q 10

From an information governance perspective this proposal may have the effect of cutting across Data Protection Legislation which is National and therefore the Scottish Government if provision is not worded carefully and considered appropriately may be acting ultra vires in imposing this obligation insofar as it cuts across Data Protection Act. (I.e. this may need to be addressed by Westminster passing appropriate legislation)

If all services are to continue in an IJB model (i.e. Council and Health Service continue to deliver change while directed by Scottish Ministers) there are a number of concerns regarding Data Sharing and Protection. Establishment of the Data Controller would also be essential to enable proper flow of information. Further if there are PAN authority agencies (such as NHS Lothian) there may also be issues in consistency of approach to data sharing/protection.

Only relevant information required should be shared. This second statement raises concerns about data protection and information governance. Not all parties may require access to all information held in order to provide requisite input.

From a service delivery perspective a single shared record would support integration and joint working. The lack of ability to maintain one single record is at minimum an impediment to service delivery, if not an actual organisational risk as it prevents oversight of the full situation, support and management of an individual's care, support, risk management strategies and any statutory responsibilities of the HSCP.

Q12. Are there alternative approaches that would address current gaps in social care data and information, and ensure a consistent approach for the flow of data and information across the National Care Service?

It is essential that we use data to measure the right things. Measuring outcomes is notoriously difficult to align to efficiency – and priorities can be driven by certain data. This can inadvertently lead to a hierarchy of rights, for example prioritising hospital discharges over the needs of individuals in the community.

Complaints and putting things right

Questions

Q13. What elements would be most important in a new system for complaints about social care services? (Please select 3 options)

- Charter of rights and responsibilities, so people know what they can expect
- Single point of access for feedback and complaints about all parts of the system
- Clear information about advocacy services and the right to a voice
- Consistent model for handling complaints for all bodies
- Addressing complaints initially with the body the complaint is about
- Clear information about next steps if a complainant is not happy with the initial response
- Other – please explain:

- This section does not allow consideration of the implications of the changes proposed. Increased access to independent advocacy and brokerage services that are recommended within the Feeley report will have considerable cost implications and remove existing council functions.
- The infrastructure required to support a complaints system (15,000 registered care services) is significant. It is not clear whether this would be removed from the Care Inspectorate or whether it will include complaints about social work / social care staff and therefore impact on the role of the SSSC.

Q14. Should a model of complaints handling be underpinned by a commissioner for community health and care?

- Yes
- No

Please say why.

The consultation recognises the risk of overlap with existing commissioner roles and fails to set out exactly what the role would achieve. The proposal would have cost implications in developing a structure and support functions.

Q15. Should a National Care Service use a measure of experience of those receiving care and support, their families and carers as a key outcome measure?

- Yes

No

Please say why.

This will require a systematic approach to recognising the rights of people to have a voice and for this to be recorded and measured and a system in place with staff trained to do this. Again – all aspirations that have been with us for many years but very challenging to implement.

Residential Care Charges

Q16. Most people have to pay for the costs of where they live such as mortgage payments or rent, property maintenance, food and utility bills. To ensure fairness between those who live in residential care and those who do not, should self-funding care home residents have to contribute towards accommodation-based costs such as (please tick all that apply):

- Rent
- Maintenance
- Furnishings
- Utilities
- Food costs
- Food preparation
- Equipment
- Leisure and entertainment
- Transport
- Laundry
- Cleaning
- Other – what would that be

Putting an increasing reliance on charges has potential administrative and arrears issues. Also, increasing charges will potentially reduce self-funders.

Q17. Free personal and nursing care payment for self-funders are paid directly to the care provider on their behalf. What would be the impact of increasing personal and nursing care payments to National Care Home Contract rates on:

Self-funders

Money would last longer before people became local authority funded.

Care home operators

Local authorities

Without additional government resources it would be another unfunded pressure for councils to absorb.

Other

Q18. Should we consider revising the current means testing arrangements?

Yes

No

If yes, what potential alternatives or changes should be considered?

Some progress has been made in relation to more equitable charging policies, for example 'Frank's law'. In addition, individuals subject to mental health legislation are no longer financially assessed for contribution towards non-residential care. However, there continues to be inequality due to variation between local authorities with regards to implementation of funding policies/ regulations.

National Care Service

Questions

Q19. Do you agree that Scottish Ministers should be accountable for the delivery of social care, through a National Care Service?

- Yes
- No, current arrangements should stay in place
- No, another approach should be taken (please give details)

The report fails to clarify how the centralisation of all of these functions will address the “unacceptable variation in local progress” (of integration). How will the centralisation of budget for IJBs/CHCSBs; with an allocation system similar to NRAC, address integration without transference of services in totality to the IJB/CHSCB? In essence, what you will be left with is a work force employed by LA’s, a workforce employed by NHS, and a purchasing budget. The only thing that will have changed is where the negotiation takes place for financial allocations.

Q20. Are there any other services or functions the National Care Service should be responsible for, in addition to those set out in the chapter?

Q21. Are there any services or functions listed in the chapter that the National Care Service should not be responsible for?

- Planning, commissioning and procurement, market oversight, standards and processes. Local authorities and Scotland Excel already have the infrastructure to deliver the services for and on behalf of local communities they serve. With increased funding many of the issues identified in the IRASC could be addressed efficiently. If the new body is set up though then it would not be helpful to have two funding partners.
- The introduction of a “once for Scotland” approach to provision of support for people with complex and specialist needs seems arbitrary. Why will the establishment of a national care agency meet the needs of these individuals? What is the definition of complex and specialist need? And, how will this align with reports such as “Coming Home” which advocates for services far closer to an individual’s family etc.?
- Would this mean residential placement or hospital beds being held by NCS and Local Authorities have to apply? What does that mean for complex healthcare funding which sits at HSCP level? Will that mean more out of area placements when we are currently looking to keep people in their local area?

- Homeless services – In East Lothian these are critically linked with wider community housing, universal and community services. We have established good partnership working between adult social work / justice services and homelessness within our current structural context. Approaches to preventing and addressing homelessness play a key role in our community justice agenda and all depend on a response that is localised to the East Lothian context.

Scope of the National Care Service

Children's services

Q22. Should the National Care Service include both adults and children's social work and social care services?

Yes

No

Please say why.

- The Feeley report was given no remit to consider children's services and therefore provides no evidence on which to base this proposal. The Independent Care Review took three years to complete and "listened very carefully to those with experience of living and working in and around the care system to properly understand what needs to change". It is of great concern that the government is proposing structural change of this magnitude on the basis of a review completed within three months and with no "voice" of children or our communities or those with professional knowledge and experience of delivering services for children.
- Is the proposal a response to the view that local authorities have failed to deliver improved outcomes for vulnerable children? Evidence from the Care Inspectorate's programme of inspection demonstrates that it is the quality and strength of collaborative leadership and direction that has the biggest impact on outcomes and not the structures within which services are situated and Social Work Scotland's review of children's services arrangements argued that children's services required a period of stability not further structural disruption.
- East Lothian Council chose not to delegate children's social work when the IJB was first implemented, however the service was managed within the H&SCP by the chief officer. It was from this position that East Lothian Council carried out a formal self-evaluation of the quality and strength of partnership working for vulnerable children and on the basis of this took a careful (and democratic) decision to retain the governance of children's services within the council and create a joint directorate with education. Whilst the importance of strong links

with adult services was recognised, the evidence clearly indicated that the relationship between children's social work and education was of primary importance in improving outcomes. Furthermore, the management of the service within the H&SCP had not resulted in improved outcomes for vulnerable children and importantly had weakened the focus in prevention and early intervention with education as the critical universal service.

- There are other ways to achieve consistency in practice across Scotland. The Scottish Government has avoided being prescriptive about procedure, instead allowing local areas to agree local arrangements for such critical matters as child protection practice. We want to change and improve how services feel to those who use them and this can only be achieved with unity of an approach. The structure and governance of an organisation makes little difference to how a person feels when they are experiencing a social work intervention. But if those interventions can be value and strengths based, with agreed operating principles and recognisable national paperwork and systems, then you move towards unity that would mean something.
- The experience of transitions between child and adult health and mental health services would not necessarily improve as a result of this proposal.

Q23. Do you think that locating children's social work and social care services within the National Care Service will reduce complexity for children and their families in accessing services?

For children with disabilities,

Yes

No

Please say why.

- Not necessarily. Bringing together health and social work/social care services could certainly bring advantages in terms of a more joined up approach in assessment and support that may support families who are trying to navigate the system. However, children with a disability and their families cannot be seen as a homogenous group. Every family is different and may require support at different points in their lives. Some may require consistent, long term support and others dip in and out or require support as the young person leaves school and transitions into adulthood.
- Children with disabilities experience significant challenges in transitioning from children's to specialist adult health services that will not be addressed by this proposal.

- A clear national transitions policy and protocol including transfer of funding and alignment of the current (at times competing) legislation relevant for children and young people would go a long way to reduce complexity for families.
- Improving transitions between children and adult services is essential, but this proposal fails to recognise that it is only small number of children who transition from children’s social work to adult social work / social care services. The critical universal services that support effective transitions for the vast majority of young people are education and housing and community-based services. The Feeley report and this consultation makes minimal reference to needing to consider how relationships with education and housing will be sustained. This is just as relevant for children with disabilities.

For transitions to adulthood

Yes

No

Please say why.

Housing and education and employment services are critical in transitions for care experienced young people. Successful delivery of the Promise is predicated on enabling children to live within safe home settings and communities where they can achieve positive outcomes in preparation for a successful transition to adulthood. Whilst access to adult mental health and substance use services will be important, this is unlikely to take precedence over access to integrated community mental health and whole family substance use services that need to be available throughout childhood and accessible within universal education services.

For children with family members needing support

Yes

No

Please say why.

- The blueprint for family support services sets out a whole system approach that should enable families to get the right kind of support as parents when they need it and for as long as is required with the aim of building parental resilience. Third sector research indicates that families need access to universal family support but highlighted the gaps – ie the “missing middle” for families who need more than universal support. Our experience of the development of the community mental health framework; school counselling services and early intervention resources demonstrate the relationship between the child’s need for support to engage and achieve in early years and school alongside the

parent's need for support. The importance of step-down family support services to help families move out of targeted services is clear.

- Whilst there will be a need for effective joint working with adult mental health, justice and substance use services to support families, in our view this does not take precedence over the importance of integration with community based and education services.
- Does an NCS mean there will be whole family approaches across all aspects of care and protection?
- Resources are already stretched for vulnerable children and families. No evidence presented that an NCS will impact on this positively.

Q24. Do you think that locating children's social work services within the National Care Service will improve alignment with community child health services including primary care, and paediatric health services?

Yes

No

Please say why.

- Not necessarily. In our experience, community child health services continue to be more closely aligned and directed by national pathways that preclude flexibility around local arrangements and integrated service developments.
- This already works well where we have good relationships and systems in place – for example the eIRD system across Lothian.
- There is definitely a potential for strengthening this alignment and health is clearly an important aspect of providing families with support. However, what appears to have become more apparent through the pandemic is that Children's Health Services are at times at risk of also becoming subsumed by the wider primary care, secondary care or tertiary health care. This potentially brings risk to funding, resource and priority setting for services. There would also again be a disconnect with education who currently hold the named person status for the majority of children in the authority. There are other models that could be considered to strengthen the named person approach and alignment of children' services, early years, education and community child health.

Q25. Do you think there are any risks in including children's services in the National Care Service?

Yes

No

If yes, please give examples

- In our experience, the quality and strength of strategic leadership and partnership working across children's services that we have invested in would be at risk. A solid understanding and support for the investment in up-stream universal approaches and early intervention and prevention services would similarly be at significant risk if children's social work was no longer "owned" within council services.
- Structural change provokes uncertainty for staff which is a risk in protective services. The degree of change – legislation, strategy and policy that children and families social work is having to embrace is already very significant.
- East Lothian Council has committed significant resources to support the implementation of the education and children's services directorate, in recognition of the need – as set out by Christie to invest in preventive approaches - to reduce vulnerability and meet children's needs at the earliest opportunity. Furthermore, the council has launched a transformation of services for children programme and is undertaking a whole-service redesign of children's social work, in line with the Promise, and will further strengthen the relationship with education, housing and third sector community-based services. For East Lothian, this proposal risks significantly undermining what we have achieved and have planned is right within our context and our communities.
- The Promise requires transformational change and we are already over half way through year one of the 21-24 Plan. The required transformation straddles a ten-year plan against which we are making significant strides. Significant consideration needs to be given to the impact the creation of a NCS that includes Children's Services will have on our ability to meet the expectations of the Promise and to bring about transformational change within the required timescales. The creation of a body that aims to improve outcomes could in fact have the opposite effect.

Healthcare

Questions

Q26. Do you agree that the National Care Service and at a local level, Community Health and Social Care Boards should commission, procure and manage community health care services which are currently delegated to Integration Joint Boards and provided through Health Boards?

Yes

No

Please say why.

Q27. If the National Care Service and Community Health and Social Care Boards take responsibility for planning, commissioning and procurement of community health services, how could they support better integration with hospital-based care services?

Q28. What would be the benefits of Community Health and Social Care Boards managing GPs' contractual arrangements? (Please tick all that apply)

Better integration of health and social care

Better outcomes for people using health and care services

Clearer leadership and accountability arrangements

Improved multidisciplinary team working

Improved professional and clinical care governance arrangements

Other (please explain below)

Q29. What would be the risks of Community Health and Social Care Boards managing GPs' contractual arrangements? (Please tick all that apply)

- Fragmentation of health services
- Poorer outcomes for people using health and care services
- Unclear leadership and accountability arrangements
- Poorer professional and clinical care governance arrangements
- Other (please explain below)

Q30. Are there any other ways of managing community health services that would provide better integration with social care?

Social Work and Social Care

Q31. What do you see as the main benefits in having social work planning, assessment, commissioning and accountability located within the National Care Service? (Please tick all that apply.)

- Better outcomes for service users and their families.
- More consistent delivery of services.
- Stronger leadership.
- More effective use of resources to carry out statutory duties.
- More effective use of resources to carry out therapeutic interventions and preventative services.
- Access to learning and development and career progression.
- Other benefits or opportunities, please explain below:

Q32. Do you see any risks in having social work planning, assessment, commissioning and accountability located within the National Care Service?

It is unclear what would be the role of the national care service and what would be the local responsibility. To increase the focus on SDS (with or without a budget) and involvement we would need an increase in resources and to shift the culture from response to anticipated need for support this may not involve a service or a budget but a social work resource. This challenges the relevance and position of the eligibility criteria, and given the issue re finance suggests a benefits eligibility approach for carers may be a better option with the social work role being that of brokerage.

The social worker as agent of the state and a gatekeeper of resources does not allow social work to fulfil an advocacy role to its full potential. In shifting the culture, it is hard to imagine what this model might need to look like, to have a focus on prevention and offer to assist rather than the criteria access to service-driven response. Possibly, there is the opportunity for this with the power of a centralised organisation providing evidence data to drive change?

There is a tension in the stated aim of promoting the universal offer and local community based services and taking the responsibility for delivery away from local authorities. How would this impact on the democratic process and the reporting of service delivery along with participation on a local level? How would this proposal protect local connections, innovation and creative opportunities? Justice

Justice social work services

Questions

Q33. Do you think justice social work services should become part of the National Care Service (along with social work more broadly)?

Yes

No

Please say why.

There is the need for better coordination, a set of minimum standards, and appropriate resources to deliver effective, consistent and person-centred community justice services. However, the Feeley report did not include justice social work in its terms of reference therefore the consultation proposal and questions have no basis in evidence. The arguments made are not compelling. The only driver for possible inclusion would be predicated on retaining all statutory social work functions together.

Q34. If yes, should this happen at the same time as all other social work services or should justice social work be incorporated into the National Care Service at a later stage?

At the same time

At a later stage

Please say why.

Q35. What opportunities and benefits do you think could come from justice social work being part of the National Care Service? (Tick all that apply)

More consistent delivery of justice social work services

Stronger leadership of justice social work

Better outcomes for service users

More efficient use of resources

Other opportunities or benefits - please explain

There need to be improvements across a number of areas for justice social work (see below), however the assumption that moving justice social work into a NCS has no basis in the evidence provided.

- Greater consistency of practice
- Potential opportunities to develop on best practice across Scotland and greater opportunities for career development
- A more cohesive JSW service across Scotland with opportunities to transfer giving service users a greater opportunity to make fresh starts
- More opportunities to promote good work nationally
- Wanting to be considered as part of the caring services across Scotland
- Could boost development in areas that have been long discussed but with limited progress, programmes for working with violence perpetrators, hate crime interventions, restorative justice, peer support etc
- Possibility that more complex service users less likely to fall 'between services'
- More early intervention and prevention
- Lead professional who stays involved, travels alongside the service user, makes everyone more accountable
- Improved IT solutions

Q36. What risks or challenges do you think could come from justice social work being part of the National Care Service? (Tick all that apply)

- Poorer delivery of justice social work services.
- Weaker leadership of justice social work.
- Worse outcomes for service users.
- Less efficient use of resources.
- Other risks or challenges - please explain:

- The business of justice social work is arguably one of the highest risk areas for councils/H&SCPs. The potential consequences of disrupting this service, its workforce.
- Concerns about reduced profile within the NCS structure and that JSW would not be sufficiently represented within senior leadership. Risk of ending ring-fenced funding.
- Risk that the professional justice social work role may not be fully understood or valued and concern that we will become more a top down rather than consensual organisation, where practice is driven from the top exclusively, marginalising voices of frontline staff. Where the complexity of the role is not respected.
- JSW, like all social work services, is basically a local business and should be treated as such. Concerns that the more powerful areas will drive national practice, what is right for Glasgow is not necessarily right for East Lothian? Justice needs to be seen to be carried out at a local level for local people to have confidence.
- What will this mean for early intervention and prevention if underlying principle is that service users should receive support when they need it rather than when prescribed?
- Joined up IT may lead to greater requirements for input of info, need to be ensure that some JSW info as protected/ restricted
- National, single budget for acquiring services is easier to manage but far from clear that will lead to better outcomes
- How will the NCS address the 'long standing concerns about consistency and availability of community justice services?
- Will NCS integration increase access to services for people with convictions – will it be truly universal?

Q37. Do you think any of the following alternative reforms should be explored to improve the delivery of community justice services in Scotland? (Tick all that apply)

- Maintaining the current structure (with local authorities having responsibility for delivery of community justice services) but improving the availability and consistency of services across Scotland.
- Establishing a national justice social work service/agency with responsibility for delivery of community justice services.
- Adopting a hybrid model comprising a national justice social work service with regional/local offices having some delegated responsibility for delivery.
- Retaining local authority responsibility for the delivery of community justice services, but establishing a body under local authority control to ensure consistency of approach and availability across Scotland.
- Establishing a national body that focuses on prevention of offending (including through exploring the adoption of a public health approach).
- No reforms at all.
- Another reform – please explain:

Q38. Should community justice partnerships be aligned under Community Health and Social Care Boards (as reformed by the National Care Service) on a consistent basis?

- Yes
- No

Please say why.

- This could be a positive step. Justice Service users often use a wide range of services and if coming under CHSC Boards allows better access to these then we would potentially be for it. It also makes sense if we are moving towards a public health model, which feels like the direction of travel with a focus on trauma informed practice this certainly aligns with our social work perspective.
- Would this mean a greater focus on early intervention and prevention? It could certainly help to build interventions/ partnerships, similarly for Diversion cases. There are obviously lots of questions around governance and how that fits with JSW's statutory duties, who will be the employer NCS or CHSCB. We would also like JSW to have a stronger voice both with other agencies/ professionals and the general public.

Prisons

Questions

Q39. Do you think that giving the National Care Service responsibility for social care services in prisons would improve outcomes for people in custody and those being released?

Yes

No

Please say why.

Q40. Do you think that access to care and support in prisons should focus on an outcomes-based model as we propose for people in the community, while taking account of the complexities of providing support in prison?

Yes

No

Please say why.

Alcohol and Drug Services

Questions

Q41. What are the benefits of planning services through Alcohol and Drug Partnerships? (Tick all that apply)

- Better co-ordination of Alcohol and Drug services
- Stronger leadership of Alcohol and Drug services
- Better outcomes for service users
- More efficient use of resources
- Other opportunities or benefits - please explain

- ADPs provide local services focussed on the needs of local people. Services are and should be accountable to local people and their representatives. ADPs provide the opportunity to ensure that the needs of people who use drugs and alcohol are kept as a priority within a system that can at times focus mainly on acute care, care homes, care of older people and primary care.
- Midlothian/East Lothian ADP (MELDAP) is an integral part of the two Health and Social Care structures and works closely with operational and senior management. Joint Directors and Heads of Service have supported this transition with good effect. The ADP operates as a specialist planning and commission resource with H&SCP's, Children's Service Strategic Partnerships and Community Justice Partnerships as well as within Community Planning structures.
- The needs of people across Scotland's diverse communities are quite different as are the alcohol and drugs needs of these communities. Because of these differences the functions of ADPs to address particular local, geographical differences will still be required. ADPs ensure that measures to address harm, whatever the substance used are managed at a local level.

Q42. What are the drawbacks of Alcohol and Drug Partnerships? (Tick all that apply)

- Confused leadership and accountability
- Poor outcomes for service users
- Less efficient use of resources
- Other drawbacks - please explain

- Whilst ADP's have power to impact on local issues such as service planning, commissioning, delivery and quality assurance, there are other areas of policy that the partnership cannot effect. The vulnerable group we care for have other

issues apart from their drug and alcohol use to deal with. ADP's could benefit from stronger links to Scotland/UK wide initiatives which impact issues such as poverty.

Q43. Should the responsibilities of Alcohol and Drug Partnerships be integrated into the work of Community Health and Social Care Boards?

Yes

No

Please say why.

- Whether the responsibilities of Alcohol and Drug Partnerships are integrated into the work of Community Health and Social Care Boards or not there is a need to ensure that the semi- autonomous relationship between the ADP and partners is protected.
- One of the many roles the ADP structure ensures is that there is clear demarcation between partner organisations as members of the ADP and their role as service providers to the ADP.
- This concept has recently been underlined and supported by COSLA and the Scottish Government. They agreed a number of recommendations to strengthen the role of ADP's through the further development the Alcohol and Drug Partnerships: Delivery Framework:

Q44. Are there other ways that Alcohol and Drug services could be managed to provide better outcomes for people?

Not at present. However, if the remit of the ADPs was to be altered then there may be a benefit to formally aligning them into operational structures.

Q45. Could residential rehabilitation services be better delivered through national commissioning?

Yes

No

Please say why.

This could be managed on a Regional/ Scotland wide basis. As the network of available residential resources increases nationally, there is merit in creating a framework and delivery mechanism that ensures the central/regional

management of a preferred providers list. The link between this regional/ national resource and local senior practitioners would allow a fast identification of appropriate and available bed space to meet an individual's care needs, There would be an ongoing management process related to available funding from national and local sources. There is also the benefit of 'economy of scale' that could be derived from a regional /national approach ensure greater value for money.

Q46. What other specialist alcohol and drug services should/could be delivered through national commissioning?

- Apart from the commissioning of residential care, there could be significant benefits to be delivered from the commissioning of a national outcomes framework using an agreed system such as Outcomes Star. All other types of provision should continue to be delivered at locality level and have the ability to continue a "flight of foot" approach to meet the dynamic and changing needs of this area of work.
- As stated above, ADP's provide local services that are focussed on the needs of local people and should continue to be accountable to local people and their representatives. The involvement of people with lived and living experience from within local communities ensures that local issues are given the profile and priority they deserve.

Q47. Are there other ways that alcohol and drug services could be planned and delivered to ensure that the rights of people with problematic substance use (alcohol or drugs) to access treatment, care and support are effectively implemented in services?

- Having people with lived experience involved in Commissioning and Performance arrangement. These colleagues bring their unique experience to bare in the scrutiny of the quality of current service provision. We are in the process of recruiting a number of people with living experience onto our executive decision making group.
- Further work is needed to develop systems to ensure that the voices and children, young people and families are also heard and these voices should not be overlooked because of needs of adults in treatment, early engagement and prevention are still key interventions.
- ADP's should continue to provide advocacy support services to people affected by their own or others drug and/or alcohol use. Any learning should be fed into the development of future service provision. Emerging evidence from advocacy initiatives has shown the significant benefit of this 'holistic' approach to meeting people's needs.

Mental Health Services

Questions

Q48. What elements of mental health care should be delivered from within a National Care Service? (Tick all that apply)

- Primary mental health services
- Child and Adolescent Mental Health Services
- Community mental health teams
- Crisis services
- Mental health officers
- Mental health link workers
- Other – please explain

Q49. How should we ensure that whatever mental health care elements are in a National Care Service link effectively to other services e.g. NHS services?

National Social Work Agency

Questions

Q50. What benefits do you think there would be in establishing a National Social Work Agency? (Tick all that apply)

- Raising the status of social work
- Improving training and continuous professional development
- Supporting workforce planning
- Other – please explain

- The recognition of Social Work through the proposed addition of a national professional body for social work is very welcome. Support for a ‘National Social Work Agency’, as a means by which to fill gaps identified around workforce and practice development, learning, training and social work education, as well as providing a strong professional and national voice to give parity to social work alongside education and health.
- A NSW Agency would strengthen the voice of the profession at a national level and give parity with other professions. It could also hold the reins of the profession and its functions whatever the governance structure.
- Improve standards for the provision of student placements and strengthen links with higher education.
- Support workforce planning through research and have a stronger voice to represent the profession as new legislation and the additional / extended responsibilities that often come with this for (which there is no additional resource provided).

Q51. Do you think there would be any risks in establishing a National Social Work Agency?

Depends on where it would sit within any structures. It needs to be properly aligned to the functions of the registering body

No support for a National Social Work Agency that would directly deliver services. National structures should exist to support local and regional delivery, not replace it.

Q52. Do you think a National Social Work Agency should be part of the National Care Service?

- Yes

No

Please say why

As we do not accept the proposal for children's social work to become part of the NCS, we would not support a NSW Agency being part of the NCS.

Q53. Which of the following do you think that a National Social Work Agency should have a role in leading on? (Tick all that apply)

- Social work education, including practice learning
- National framework for learning and professional development, including advanced practice
- Setting a national approach to terms and conditions, including pay
- Workforce planning
- Social work improvement
- A centre of excellence for applied research for social work
- Other – please explain

The only way a NSW Agency could lead a national approach to T&C's would be through all social work staff being transferred to a new organisation.

If this is not done there would be challenges in parity of workforce. Also concern regarding financing this from a national perspective.

Reformed Integration Joint Boards: Community Health and Social Care Boards

Questions

Governance model

Q54. “One model of integration... should be used throughout the country.” (Independent Review of Adult Social Care, p43). Do you agree that the Community Health and Social Care Boards should be the sole model for local delivery of community health and social care in Scotland?

Yes

No

Please say why.

- CHSCBs would require new infrastructure and governance which already exists in local authorities. It would be very inefficient for CHSCBs in small local authority areas to operate. CHSCBs would be responsible for provision of local services but would have a majority unelected membership. Not clear how the role of social work would be able to function in this structure without putting safety of service users at risk.
- One model would be beneficial for consistency and review purposes. At a higher level this would allow a consistent approach and allow suppliers and other third party stakeholders to engage fully with each authority area on like for like basis. Who would control this (Scottish Ministers?)

Q55. Do you agree that the Community Health and Social Care Boards should be aligned with local authority boundaries unless agreed otherwise at local level?

Yes

No

Q56. What (if any) alternative alignments could improve things for service users?

This again would depend on the model rolled out. If the staff are to remain within ELC then the answer should be yes if not then from legal perspective it would not matter – although there seems to be a want to include elected members on the board. If local this would allow justification for local elected members to sit on a regional board and represent the constituent’s issues.

Q57. Would the change to Community Health and Social Care Boards have any impact on the work of Adult Protection Committees?

Yes – added complexity of bureaucracy and governance in that a governance structure would have to be established and it is likely that the support currently in place could be diluted by the proposal as there may not be back room support services to provide all committee support on implementation

We already have an integrated public protection committee – that successfully sits across two local authorities, two H&SCPs, other national bodies and allows a joined-up approach to public protection.

Membership of Community Health and Social Care Boards

Q58. The Community Health and Social Care Boards will have members that will represent the local population, including people with lived and living experience and carers, and will include professional group representatives as well as local elected members. Who else should be represented on the Community Health and Social Care Boards?

Only elected members can democratically represent the local population. How would representation be achieved that would be fair and truly representative? Where is the Local Democracy?

Q59. “Every member of the Integration Joint Board should have a vote” (Independent Review of Adult Social Care, p52). Should all Community Health and Social Care Boards members have voting rights?

Yes

No not if unelected or not a senior officer in a public body

Q60. Are there other changes that should be made to the membership of Community Health and Social Care Boards to improve the experience of service users?

Ensuring that there is a wide range of service user groups and interest represented and membership is updated\refreshed regularly. Maximum terms?

Although from a practical high level governance/equality perspective if all have a vote then no one area would be considered to be more important than the other if there was any area without a vote then this may lead to a perception that overall their position does not count in the same way.

Q61. Should Community Health and Social Care Boards employ Chief Officers and their strategic planning staff directly?

Yes

No

Q62. Are there any other staff the Community Health and Social Care Boards should employ directly? Please explain your reasons.

- It is unclear whether this question is proposing that CHSCBs become the employer for social work and social care staff currently employed by councils. If so, the impact is significant in terms of the infrastructure required to support the functions. The wording of the question is unhelpfully vague.

- If employees are transferred to the Board then this may also include transfer of support service members who provide support to adult social care.
- It may also mean that funding streams are re-routed and as such may create potential redundancies through inability to fully fund current local authority support service positions which are cross funded through social care
- The starting block to being an independent organisation can only come from employment of staff however that also means there would be a requirement for additional independent services.
- The role of the CSWO is not discussed or considered within the Feeley review. There would be challenges in discharging the statutory functions of the Chief Social Work Officer if social workers were no longer employed by councils.

Commissioning of services

Questions

Structure of Standards and Processes

Q63. Do you agree that the National Care Service should be responsible for the development of a Structure of Standards and Processes

- Yes
 No

If no, who should be responsible for this?

- Community Health and Social Care Boards
 Scotland Excel
 Scottish Government Procurement
 NHS National Procurement
 A framework of standards and processes is not needed

Q64. Do you think this Structure of Standards and Processes will help to provide services that support people to meet their individual outcomes?

- Yes
 No

Q65. Do you think this Structure of Standards and Processes will contribute to better outcomes for social care staff?

- Yes
 No

Q66. Would you remove or include anything else in the Structure of Standards and Processes?

- Must allow for Self-Directed Support principles to apply and proportionality of approaches for different sizes and types of services and localities.
- The standards and principles are already implemented to some extent in existing infrastructure and legislation so these could all be removed by increasing capacity in the existing organisations.
- The Standards and Principles cannot be effectively implemented as described unless this is supported by appropriate funding.

- Remove anything that would place an undue administrative burden on providers, their staff or where funding is not in place for regular local review processes or care packages, service user outcomes and provider performance & contractual compliance. There is a risk that the above would place unsustainable burdens on suppliers where there is already an issue with staffing.
- Remove anything that this is not funding for a local function to effectively review and monitor.

Market research and analysis

Q67. Do you agree that the National Care Service should be responsible for market research and analysis?

- Yes
- No

If no, who should be responsible for this?

- Community Health and Social Care Boards
- Care Inspectorate
- Scottish Social Services Council
- NHS National Procurement
- Scotland Excel
- No one
- Other- please comment

National commissioning and procurement services

Q68. Do you agree that there will be direct benefits for people in moving the complex and specialist services as set out to national contracts managed by the National Care Service?

- Yes
- No

If no, who should be responsible for this?

- Community Health and Social Care Boards
- NHS National Procurement
- Scotland Excel

Regulation

Core principles for regulation and scrutiny

Q69. Is there anything you would add to the proposed core principles for regulation and scrutiny?

- Stronger knowledge and recognition of the shift / developments in practice needs to be reflected in the inspection methodology. Inspectors need recent and relevant experience in working within or managing the services they are regulating and inspecting.
- Use of the new national approach to learning reviews must drive a culture of learning within regulatory processes.
- Support for Services to seek the child /young person/adults views on an on-going basis re service delivery. This role is still considered an add-on within LAs rather than a necessity in service improvement.

Q70. Are there any principles you would remove?

Principle 3 – as this refers to NCS

Q71. Are there any other changes you would make to these principles?

These principals are vague and too wordy to be effective. It is not possible to see how they can be used to hold the regulator to account.

Strengthening regulation and scrutiny of care services

Questions

Q72. Do you agree with the proposals outlined for additional powers for the regulator in respect of condition notices, improvement notices and cancellation of social care services?

- Yes
- No
- Please say why.

Q73. Are there any additional enforcement powers that the regulator requires to effectively enforce standards in social care?

Comment re powers of registration of new services

The experience through COVID has highlighted a critical gap in the standards and readiness that new care home services need to achieve and evidence before they should be registered. H&SCPs are well placed to understand whether proposed new services have demonstrated the key elements of leadership and management and partnership working that are required to enable them to safely begin to take residents. The absence of these has resulted in significant levels of support work and intervention from the H&SCP over a prolonged period to assure the safety and wellbeing of residents that could have been avoided.

Market oversight function

Q74. Do you agree that the regulator should develop a market oversight function?

No

Q75. Should a market oversight function apply only to large providers of care, or to all?

Large providers only

All providers

Q76. Should social care service providers have a legal duty to provide certain information to the regulator to support the market oversight function?

Yes

No

Q77. If the regulator were to have a market oversight function, should it have formal enforcement powers associated with this?

Yes

No

Q78. Should the regulator be empowered to inspect providers of social care as a whole, as well as specific social care services?

Yes

No

Please say why

To provide greater transparency as to how providers manage their business and overall financial health
--

Enhanced powers for regulating care workers and professional standards

Questions

Q79. Would the regulator's role be improved by strengthening the codes of practice to compel employers to adhere to the codes of practice, and to implement sanctions resulting from fitness to practise hearings?

Yes. However there needs to be an overhaul of the arrangement for fitness to practise. It is not responsive, takes too long, is not transparent and managers have little confidence that the complexity of the social work role is fully understood by those making decisions.

Q80. Do you agree that stakeholders should legally be required to provide information to the regulator to support their fitness to practise investigations?

Yes

Q81. How could regulatory bodies work better together to share information and work jointly to raise standards in services and the workforce?

Regulatory bodies need to strengthen and articulate the professional profile, role and function of social work staff to give parity with other professions and engage with employers to ensure these standards are embedded within workforce development and governance arrangements.

Q82. What other groups of care workers should be considered to register with the regulator to widen the public protection of vulnerable groups?

Valuing people who work in social care

Questions

Q83. Do you think a ‘Fair Work Accreditation Scheme’ would encourage providers to improve social care workforce terms and conditions?

Yes

No

Please say why.

- It would add increased bureaucracy for providers, fair work first principles already being applied for some time in social care that do not conflict with Employer\Employee rights and obligations, Employment Contracts (or EU rulings).
- 32 Local Authorities have 32 individual sets of terms and conditions of service. How these would be harmonised across the NCS.
- This would also leave Council vulnerable to equality claims and litigation from the wider workforce.

Q84. What do you think would make social care workers feel more valued in their role? (Please rank as many as you want of the following in order of importance, e.g. 1, 2, 3...)

1	Improved pay
	Improved terms and conditions, including issues such as improvements to sick pay, annual leave, maternity/paternity pay, pensions, and development/learning time
	Removal of zero hour contracts where these are not desired
2	More publicity/visibility about the value social care workers add to society
	Effective voice/collective bargaining
3	Better access to training and development opportunities
4	Increased awareness of, and opportunity to, complete formal accreditation and qualifications
5	Clearer information on options for career progression

	Consistent job roles and expectations
	Progression linked to training and development
	Better access to information about matters that affect the workforce or people who access support
	Minimum entry level qualifications
	Registration of the personal assistant workforce
6	Other (please say below what these could be)

Please explain suggestions for the “Other” option in the below box

For council employed staff - Care staff within councils, along with other non-teaching staff, already benefit from collective bargaining. Hard to justify why staff in this area of service delivery should be treated differently to other council staff. The £500 payments has already created some discourse. For external providers – would this potentially make external services too expensive and bring them in-house? Would additional funding be forthcoming to cover additional costs as a result?

Q85. How could additional responsibility at senior/managerial levels be better recognised? (Please rank the following in order of importance, e.g. 1, 2, 3...):

1	Improved pay
	Improved terms and conditions
	Improving access to training and development opportunities to support people in this role (for example time, to complete these)
2	Increasing awareness of, and opportunity to complete formal accreditation and qualifications to support people in this role
	Other (please explain)

Please explain suggestions for the “Other” option in the below box

Q86. Should the National Care Service establish a national forum with workforce representation, employers, Community Health and Social Care Boards to advise it on workforce priorities, terms and conditions and collective bargaining?

Yes

No

Please say why or offer alternative suggestions

- The proposal does not recognise the complexity of the situation. If not transferred would be parity issues across the council.
- Workforce Priorities may be driven at a local level depending on the demand within the region. Each local authority area while they may have similar challenges face differing demographics in their overall population.
- The suggestion that services currently delegated e.g. social work, will require contractual arrangements seems to be without any evidence of what gap/ issue/risk this will address or mitigate. If social worker services require contractual arrangements, would such an argument not be equally applicable to NHS Staff delivering delegated services?
- Will we have a national negotiating committee and handbook for CHASCB? (PR)
- Paper reference to no wholesale change in employment status to NHS but silent on local authority staffing – therefore what is the change if staff to remain with host employer what change will be achieved? Potentially no different from the current HSCP set up.
- If the decision is that T&Cs set nationally who is negotiating with employers to vary contracts if employment remains with LA's?
- What arrangements will be in place to protect LA's position against equal pay claims if under different set of T&C's
- Who is liable for any legal recourse is taken by individuals or Trade Unions?
- What does it mean for services not in NCS but that provide services to them i.e. Facilities Management, Transportation, all Support Services i.e. Finance, Administration, HR & Payroll, IT. This potentially leaves LAS open to litigations as staff compare conditions with the same employer.

Workforce planning

How it works now

Workforce planning across social care employers is varied and complex, which makes accurately planning workforce requirements difficult.

Questions

Q87. What would make it easier to plan for workforce across the social care sector?
(Please tick all that apply.)

- A national approach to workforce planning
- Consistent use of an agreed workforce planning methodology
- An agreed national data set
- National workforce planning tool(s)
- A national workforce planning framework
- Development and introduction of specific workforce planning capacity
- Workforce planning skills development for relevant staff in social care
- Something else (please explain below)

An agreed national data set would support the social work profession in achieving better equity in workloads that is presently highly variable across the country and contributes to inconsistency in levels of provision and support.

Training and Development

Questions

Q88. Do you agree that the National Care Service should set training and development requirements for the social care workforce?

- Yes
- No

Please say why

Q89. Do you agree that the National Care Service should be able to provide and or secure the provision of training and development for the social care workforce?

- Yes
- No

Personal Assistants

Questions

Q90. Do you agree that all personal assistants should be required to register centrally moving forward?

Yes

No

Please say why.

Q91. What types of additional support might be helpful to personal assistants and people considering employing personal assistants? (Please tick all that apply)

National minimum employment standards for the personal assistant employer

Promotion of the profession of social care personal assistants

Regional Networks of banks matching personal assistants and available work

Career progression pathway for personal assistants

Recognition of the personal assistant profession as part of the social care workforce and for their voice to be part of any eventual national forum to advise the National Care Service on workforce priorities

A free national self-directed support advice helpline

The provision of resilient payroll services to support the personal assistant's employer as part of their Self-directed Support Option 1 package

Other (please explain)

A good starting point would be for Scotland to offer wide central provision of values-based training and practice for PA staff, and Direct Payment employer awareness and support to build confidence to discharge their duties as an employer.

Is there a gap which could be filled by a SiRD (Support in the Right Direction) type organisation to develop, facilitate, support and manage a mechanism for all Scottish PAs? A strong Scotland-wide PA Network could support better understanding of employer/employee rights, employer/employee roles, to support lone working and help to resolve conflict and establish sufficient boundaries or expectations based on mutual respect.

Q92. Should personal assistants be able to access a range of training and development opportunities of which a minimum level would be mandatory?

Yes

No

Completed responses should be submitted, before the closing date of 18 October 2021, to: NCSconsultation@gov.scot or by post to:

National Care Service Team
Scottish Government Area GE-15
St Andrew's House
Regent Road
EDINBURGH,