

SCOTTISH GOVERNMENT CONSULTATIONS:-

- **A NATIONAL CARE SERVICE FOR SCOTLAND**
 - **COVID RECOVERY – A CONSULTATION ON PUBLIC SERVICES, JUSTICE SYSTEM AND OTHER REFORMS**
-

1. EXECUTIVE SUMMARY

- 1.1 Following on from the report that was considered by the Council on 30th September 2021, this further report provides members with draft responses for consideration, in respect of the following two consultations, which have been launched by the Scottish Government (SG):-
- 1.2 [A National Care Service for Scotland](#) - this consultation sets out proposals to change the way social care is delivered in Scotland, following the recommendations of the Independent Review of Adult Social Care (IRASC), which was Chaired by Derek Feeley, a former SG Director General for Health and Social Care and Chief Executive of NHS Scotland. A copy of this report, which was published in February 2021, is available to view [here](#). The deadline for responses to this consultation is 2nd November 2021.
- 1.3 [Covid Recovery](#) – this consultation invites views on specific legislative proposals to support Covid Recovery, including proposals for greater public health resilience, for public services and justice system reform and to respond to the impact of Covid in the justice system in particular. The deadline for responses to this consultation is 9th November 2021

2. RECOMMENDATIONS

Members are asked to:-

- 2.1 Consider and agree the proposed submissions for both consultations, set out in appendices 1 to 3.

3. DETAIL

3.1 A National Care Service for Scotland

- 3.1.1 On 9th August the SG launched the consultation “A National Care Service for Scotland”, which follows on from the IRASC report that was commissioned to recommend changes to adult social care in Scotland. It concluded that whilst there were strengths in Scotland’s social care system, it needed revision and

redesign to enable a step change in the outcomes for the people in receipt of care.

- 3.1.2 The consultation document has now extended the scope of the review to other service areas including children and families, community justice, alcohol and drug services, mental health services, and social work. The proposals have the potential to be the largest and most significant public sector reform in Scotland for decades.
- 3.1.3 The purpose of the consultation is to seek views from a range of stakeholders ahead of the creation of a NCS. The closing date for responses is 2nd November and the end of the consultation process all feedback will be analysed and conclusions will be used to shape and develop new legislation. It is anticipated that any new legislation (a bill) will be developed and introduced in the Scottish Parliament in summer 2022, with the intention that the NCS will be fully functioning by the end of the Parliamentary term in 2026.
- 3.1.4 The consultation contains 96 questions around 11 main themes. Officers have now completed the questionnaire (attached at **appendix 1**), taking account of feedback from the various discussions that have been held to develop the response, including the Members Seminar held on 21st September and the Council meeting on 30th September.
- 3.1.5 In respect of the format of the consultation response form at appendix 1, it is felt that the question set is limited and does not allow the Council to fully and sufficiently express its views, therefore an additional narrative has been prepared to supplement the response form, and this is attached at **appendix 2**. Members are being asked to consider and agree the content of appendices 1 and 2 in respect of the NCS consultation.

3.2 Covid Recovery – A Consultation on Public Services, Justice System and other Reforms

- 3.2.1 On 17th August 2021 the SG launched the “Coronavirus (COVID-19) Recovery – Justice System, Health and Public Services Reform Consultation. This consultation invites views on a range of legislative proposals that the SG think will have the potential to support Covid recovery:-
- Proposals for greater public health resilience, to protect Scotland against future public health threats;
 - Proposals for public services and justice system reform, to ensure that the benefits of practical modernisations put in place during the pandemic are not lost; and
 - Proposals to respond to the impact of Covid in the justice system specifically, where backlogs have unavoidably built up.
- 3.2.2 Officers from across the Council have now considered the terms of this consultation and have prepared responses to the following 14 key topics, further details of which can be found in **appendix 3**:-

Q1/Topic H1 - Education: powers to make directions to close educational establishments, and to ensure the continuity of education

The proposal is to make permanent provisions in the UK Act that relate to education, namely the duty on all operators of educational establishments to have regard to the advice of the Chief Medical Officer for Scotland (“CMO”), and the powers for Scottish Ministers to give directions in relation to the closure of educational establishments and the continuity of educational provision during the remainder of the current pandemic and future pandemics.

Q2/Topic H2 - Power to make public health protection regulations

In order to ensure the continuance of the provisions which enable the Scottish Ministers to make regulations for the purpose of preventing, protecting against, controlling or providing a public health response to the incidence or spread of infection or contamination which presents or could present significant harm to human health in Scotland, SG are proposing to make permanent the provisions in schedule 19 of the UK Act.

Q4/Topic H4 - Virtual public meetings under the Schools (Consultation) (Scotland) Act 2010

The SG intend to legislate so that in the event of a significant health emergency in the future, akin to the Covid pandemic, local authorities will have the flexibility to hold public meetings virtually. We wish this to be in place on a permanent basis so it can be utilised during any future pandemic.

Q5/Topic P1 - Alcohol licensing remote hearings

This proposal would enable Licensing Boards to make discretionary decisions as to whether it would be appropriate for a hearing to be held remotely as opposed to “in person”.

Q10/Topic P6 - Care services: giving of notices by the Care Inspectorate

The proposal is to enable the Care Inspectorate to send formal notices to care service providers by electronic means.

Q11/Topic P7 - Civic government licensing remote hearings

This proposal relates to retention, in an amended form, of one aspect of the civic government licensing provisions in the First Scottish Act. This relates to the holding of licensing authority hearings.

Q12/Topic P8 - Courts: intimation, etc. of documents

It is proposed that the law be permanently changed so that any requirement to display a document on the walls (or any other part) of a court building or to make it publicly available within a court can also be fulfilled by publishing the document on the Scottish Courts and Tribunals Service’s (“SCTS”) website.

Q14/Topic P10 - Freedom of Information: giving notice electronically

The proposal is to enable the Scottish Information Commissioner and Scottish public authorities to issue formal notices under the Freedom of Information (Scotland) Act 2002 (“FOISA”) electronically.

Q16/Topic P12 - Legal writings etc.

This proposal would make permanent the disapplication of the requirement for the “physical presence” of certain parties, and allows for Scottish notaries public, solicitors and advocates to adopt alternative appropriate means of executing documents, and administering of oaths, affirmations and declarations.

Q20/Topic P16 - Remote registration of deaths and still-births

A number of provisions are proposed on a permanent basis to enable alternative methods by which information related to the registration of deaths and still births can be provided.

Q21/Topic P17 - Remote registration of live births

The Scottish Government is proposing to develop permanent legislative provisions in relation to registration of live births. The proposed changes will build on the above revised ‘hybrid’ process for live birth registration that has been adopted as a result of the Covid pandemic.

Q22/Topic P18 - Tenancies: protection against eviction (discretionary grounds of eviction); and pre-action requirements for eviction proceedings on ground of rent arrears

The intention is to ensure the continuance of the provisions which provide the First-tier Tribunal (Housing and Property Chamber – the “Tribunal”) with discretion to consider all matters relating to eviction cases going before them (First Scottish Act, schedule 1) and also provisions that set out pre-action requirements for orders for possession or eviction orders on the ground of rent arrears (Second Scottish Act, schedule 1, Part 2).

Q23/Topic J1 - Courts and tribunals: conduct of business by electronic means

It is proposed that the provisions around electronic signing and sending of documents in courts and tribunals should be extended beyond March 2022.

Q24/Topic J2 - Courts and tribunals: virtual attendance

It is proposed that the rules allowing people to attend a court or a tribunal by electronic means (for example, by live video link) should be extended beyond March 2022.

- 3.2.3 Overall, the view is that the proposed provisions in respect of these 14 areas should be developed, extended beyond March 2022 and made permanent as these powers will provide a continued degree of flexibility as we recover from Covid and in future should there be another pandemic or similar threat to human health in Scotland. Members are asked to consider and agree the draft responses set out in appendix 3 with regard to the Covid Recovery Consultation.

4 CONCLUSION

- 4.1 This report provides members with draft responses in respect of the NCS and Covid Recovery consultations launched by the SG in August. Members are being asked to consider and agree the final submissions for both consultations, as set out in appendices 1 to 3.

5 IMPLICATIONS

- 5.1 Policy – none arising from this report
- 5.2 Financial – lack of financial information contained in the NCS consultation document but it is envisaged that significant investment will be required to deliver the proposals.
- 5.3 Legal – envisage new legislative requirements being introduced summer 2022 in respect of NCS and a range of provisions being extended and made permanent in respect of Covid consultation.
- 5.4 HR – Significant potential implications for Council employees working in social work and social care arising from NCS consultation – further detail required to ascertain impact.
- 5.5 Equalities/Fairer Scotland Duty – none arising from this report
- 5.6 Risk – none arising from this report
- 5.7 Customer Services – none arising from this report

Douglas Hendry

Executive Director with responsibility for Legal and Regulatory Support

Policy Lead – Councillor Kieron Green - Health and Social Care

12 October 2021

For further information, please contact:

Laura Blackwood
Directorate Support Officer
Customer Services
01546 604325