Appendix 1

Scottish Government
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**A National Care Service for Scotland - Consultation**

**RESPONDENT INFORMATION FORM**

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

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Are you responding as an individual or an organisation?

☐ Individual

☒ Organisation

Full name or organisation's name

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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)

☐ Do not publish response

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If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.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

## Improving care for people

### Improvement

**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?

The Council are in agreement that there are potential benefits of a centralised improvement and research function, as outlined in Q1 above, however it is recognised that there are a wide range of existing organisations who already carry out work of this nature, for example:- SSSC, Care Inspectorate, higher education institutions. There would be an expectation that any new central body wouldn't replicate this/risk diminishing their roles, but rather ensure that there is improved joined up/cross working between the existing establishments, to enhance the provision that is already in place.

## Access to Care and Support

### Accessing 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.

## 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 |
|---|---|---|---|---|
| | | | | |

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

| |
|---|
| |

**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.

| Beneficial to have consistent/standard language across services to avoid misinterpretation of needs. |
|---|

**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.

| Q3, 4, 5 and 7 above are framed for an individual/personal response, therefore the Council has chosen not to respond. |
|---|

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

☒ Agree

☐ Disagree

Please say why.

The Council are in agreement that the use of a national practice model / holistic approach to planning and provision of support services should result in improved outcomes for the individual. This approach should ensure that everyone who is involved with the individuals care has the opportunity to contribute and therefore encapsulate all support needs.

The Council, however have some concerns about the proposals in terms of accessing services within a unique remote/rural area like Argyll and Bute. There are significant challenges within our area in terms of being able to provide equity of provision and consistency of approach due to the lack of availability of service provision in some localities. The proposals as they stand would amplify these issues. It is anticipated that there will be an increase in demand for services, and the capacity required to aid individuals understand their choices, which creates challenges in terms of unmet needs and managing expectations.

Right to breaks from caring

**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

| | | |
|---|---|---|
| ☒ Personalised support to meet need | ☐ Standardised levels of support | ☐No preference |

A right for all carers versus thresholds for accessing support

| | | |
|---|---|---|
| ☒ Universal right for all carers | ☐ Right only for those who meet qualifying thresholds | ☐ No preference |

Transparency and certainty versus responsiveness and flexibility

| | | |
|---|---|---|
| ☐ Certainty about entitlement | ☒ Flexibility and responsiveness | ☐ No preference |

Preventative support versus acute need

| | | |
|---|---|---|
| ☒ Provides preventative support | ☐ Meeting acute need | ☐ No preference |

**Q10.** 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.

Argyll and Bute Council absolutely supports the principle that unpaid carers should have easy access to respite/short breaks which meet their and the people they look after's needs and we welcome a shift to a preventative early intervention model of support. However, removing the statutory responsibility from Local Government would impact on the ability to deliver a joined-up approach across other essential services that impact on a carer's health and wellbeing. The services proposed as being included in the National Care Service have wider linkages with areas such as housing, employability, education, public safety and protection. Indeed, the Scottish Government and COSLA had previously agreed that education and early learning and childcare should not be delivered separately from children's services, given the evident need for joined up delivery in these areas, and we feel that splitting these services out into the proposed NCS may have a negative impact on young carers.

Should the proposal go ahead, it is essential that any new arrangements provide flexibility for commissioners and carers to work together to create support plans which deliver assessed outcomes for carers and the people they look after. The arrangements should enable carers to benefit as much as possible from the range of care and non-care support services available to them where they live. This is especially acute where carers live in remote rural and island communities where the range of supports available is likely to be much narrower than in more populous areas.

## Using data to support care

**Q11.** 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 |
|---|---|---|---|---|
| | X | | | |

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 |
|---|---|---|---|---|
| X | | | | |

**Q12.** 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.

Agree that there should be a nationally consistent, integrated and accessible electronic social care and health record and that information about health and care needs should be shared across the services that provide support.

Simplicity and accessibility of systems and data infrastructure are key to success in creating an effective single system. The legal framework at present means that information can be shared in an appropriate manner, however the arrangements for this between partners can and should be simplified now. In addition, data infrastructure and systems are not universal and systems in place at the moment don't "talk to each other". This can be simplified along with sharing arrangements now and does not need the creation of a NCS to do so.

Careful consideration needs to be given to data sharing arrangements and this can be driven at a national level, However, this need not necessarily be through new legislation to be used to require all care services to provide data as specified by NCS. Whilst it would be reasonable to have a set of common data standards and definitions there is no need for legislation to allow this to happen. The SG currently have a number of data sharing arrangements with Social Work where data is provided to them on a regular basis and although this could be enhanced, constitution of a National Care Service is not a pre-requisite for this to happen.

**Q13.** 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?

Data Protection legislation currently allows for the sharing of data and information between Social Care Services and Social Care and the NHS in the HSCP's. While that can be enhanced, constitution of a National Care Service is not a pre-requisite for this to happen.

## Complaints and putting things right

**Q14.** 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:

**Q15.** Should a model of complaints handling be underpinned by a commissioner for community health and care?

☐ Yes

☒ No

Please say why.

The Scottish Public Services Ombudsman (SPSO) is the final stage for complaints about councils and the services they provide, Social Work the National Health Service, housing associations, colleges and universities, prisons, most water providers, the Scottish Government and its agencies and departments and most Scottish authorities.

A charter of rights and responsibilities seems a reasonable approach, however it would not be appropriate to have a complaints handling system in place that would overlap or conflict with the SPSO who already carries out the regulatory function in terms of the model CHP.

This system provides a two-stage complaints procedure for most public services in Scotland allowing matters to be resolved, where possible at a local level to ensure engagement and accountability where services are delivered. The SPSO is a final resort where matters can't be resolved locally. Any move to centralise complaints or

remove the ability to engage locally with the service provider diminishes local engagement and the ability to resolve matters and to learn and evolve services through the experience of its users. This would be a major departure from 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 which support the idea that services are designed and delivered as locally as possible.

**Q16.** 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.

## Residential Care Charges

**Q17.** 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

This section of the consultation considers charging for residential care for people with capital and assets with a combined value exceeding the upper capital limit in the National Assistance (Assessment of Resources) Regulations 1992 which is currently £28,750.

Before dealing with the question raised, it is worth pointing out that there is a material error in the third paragraph of the "How it Works" section. The consultation suggests that care home residents with capital and assets with a combined value below the lower capital limit of £18,000 "will not ordinarily be asked to contribute towards the cost of their care and be placed within a care home on the National Care Home Contract (NCHC)." This is incorrect. Where a resident has capital and assets with a combined value below £18,000, their capital and assets are disregarded in their assessment but they will still make a contribution towards their care costs based on the amount of income they receive.

Historically, financial support for care home residents in Scotland has been means tested, with people who own significant capital and assets paying for their own care, known as self-funding, and those with lower financial means able to seek financial assistance from their local Council, now Health and Social Care Partnership (HSCP). In July 2002, the Scottish Government introduced the current Free Personal and Nursing Care subsidy arrangements for residents who had previously been self-funding as they owned capital and assets with a combined value in excess of the upper capital limit set out in the National Assistance (Assessment of Resources) Regulations 1992. Since 2002, a set of fixed rate subsidies have been available to self-funding residents which they can claim to reduce the amount of care fees they pay. The subsidies are paid directly to the resident's care home by the local HSCP and the care home reduces the resident's fees by the equivalent amount. Although the subsidy rates have normally increased annually, they haven't kept pace with the cost of care and the National Care Home Contract rates, reducing the real value of the support to residents and breaking the link in relation to personal and nursing care being "free" to all care home residents.

The consultation proposes to increase the Free Personal and Nursing Care subsidy rates to bring them into line with the cost of care included in the National Care Home Contract rates which underpin the funding provided for residents entitled to means tested assistance. The outcome would be that self-funding residents would no longer be charged for the costs of basic personal and nursing care and would instead pay for board and lodgings costs as well as any extras they have requested from their care provider. It should be noted that the proposal does not provide any details on the value of the proposed rates, a timescale for implementation and how parity with the relevant parts of National Care Home Contract rates will be reached – in one uplift or phased over more than one uplift/year.

Question 17 of the consultation tests the above premise that self-funding residents continue to pay board and lodgings costs, exposing them to the same range of costs which a person living at home would have to pay. We are asked to indicate which of the list of provided cost items we think should still apply and indicate if there are any other costs we think could be included.

We are content that the provided list covers the full range of costs which we would consider board and lodgings and that, to provide parity with people living at home, all of these costs should be included in the charges levied to self-funding care home residents.

**Q18.** 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

Assuming that the benefit of the subsidy rates increase is passed on to residents in full and that care home owners don't increase their rates to absorb all or part of the uplift, we would expect that the level of fees paid by self-funding residents would reduce. This will mean that they will be self-funding for longer as they won't have to use as much of their capital each week to pay their care fees. For residents who own property and are funded under a charging order (deferred payment arrangement), the amount of funding repayable to the Council will be reduced as the Council can only recover the contributions it pays in excess of the relevant free care subsidy rate.

For self-funders who never reach the upper capital threshold, either because their stay in care is short or they own capital and assets with a combined value well in excess of the upper threshold, the reduction in the erosion of their capital will increase the value of their estates, benefiting their heirs and possibly the Exchequer through higher inheritance tax receipts.

Care home operators

By increasing the subsidies, a larger proportion of care homes' revenue would be paid by HSCPs. These receipts would have more certainty and regularity for the providers which would reduce the financial risks they face, would put them in better standing with the financial institutions which support them and improve the financial stability of the sector.

In addition, as most care homes charge self-funding residents higher fees than residents funded by HSCPs under the means test arrangements, the homes will be able to generate additional revenue from self-funding residents. This is due to the residents paying lower fees and being self-funding and charged the higher fee rates for longer than they are at present (please note that this assumes no material change in the level of the upper capital limit). This may benefit the owners, investors and financial institutions who operate and support the homes. There may also be benefits for the staff working in the homes if they can afford and choose to improve their staff's terms and conditions.

Local authorities

The level of spending by local authorities on care home fees would be increased in three ways by an increase in the free personal and nursing care subsidy rates:

1. For self-funders in receipt of a subsidy, the increase in rate would directly increase the financial burden on local authorities;
2. For residents with capital and assets with a combined value below the upper capital threshold but high levels of weekly income, the free care subsidy rates define the minimum contribution payable by local authorities toward these resident's care fees. As the subsidy rates increase, more financial assessments will need to be adjusted to ensure that local authorities meet the minimum contribution. This will result in local authorities paying increased contributions to care packages, increasing the financial burden on them.

3. For residents with capital below the upper threshold but who own property which is included in their assessment, they can apply for a deferred payment arrangement – essentially a loan from the local authority to help cover their care fees until they sell their property or their placement ends. The value of the loan equals excess fees paid by the local authority above the relevant free care subsidy rate. If the subsidy rates increase, the difference between the subsidy and the contribution paid decreases and the amount of funding recoverable reduces, placing a further financial burden on the local authority as we budget for the value of the debt accrued annually by affected residents and use it to fund care services.

Other

The consultation asks if there are other parties who might be affected by an increase in the free personal and nursing care subsidy rates. We have mentioned previously some other indirect beneficiaries of the change in rates but are not aware of any other direct stakeholders who would be impacted.

**Q19.** Should we consider revising the current means testing arrangements?

☒ Yes

☐ No

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

Having considered the question and mindful of the consultation's proposals, we would recommend several areas where the current rules could be changed to improve outcomes for residents and increase fairness as follows:

1. Increase the upper capital threshold to avoid people with moderate levels of capital and assets being classed as self-funding and asked to pay higher fees. An assessment of a fair level would need to be undertaken.
2. Increase the personal expenditure allowance to provide residents with more money to spend on their weekly needs. The weekly rate is currently £29.30, leaving residents with a very small amount of money for clothing, personal items

etc. This particularly affects residents with little to no capital to fall back on to meet these type of costs and an increase would make the system fairer for those who are less well off.

3. Review the regulations to remove several loopholes which are often used by people with high capital to avoid paying care fees, including:

- Monetary gifts paid to family members – there is no limit or guidance in place leaving it open to different Councils to do different things reducing consistency in approach and leading to excessive time spent resolving disputes with families around what is fair and what is deprivation of assets;
- The use of discretionary trusts by people who transfer capital and property to trusts to reduce their controllable capital and assets. We have had cases where the resident is the beneficiary of the trust and has used the trust deliberately as a mechanism to reduce their capital and assets and avoid care fees; and
- The increasing use of life insurance schemes linked to investments for the purpose of having capital disregarded in assessments.

## National Care Service

**Q20.** 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)

Whilst it is agreed that the Scottish Ministers should have a higher level of accountability in relation to the delivery of social care, it is suggested that this could be achieved by alternative means, such as amending the existing legislative regime – namely the *Public Bodies (Joint Working) (Scotland) Act* 2014 (the 2014 Act). Amendments could be made to the 2014 Act in order to grant the Scottish Ministers a higher level of supervision/oversight to HSCPs on an ongoing basis than currently provided for.

In addition, consideration could be given to amending Section 1 of the 2014 Act to limit the possible options of integration model to a sole (integration joint board/body corporate) model. Such a single model approach may assist in promoting consistency across HSCPs in various areas given that all would be subject to the same organisational structures.

It is also noted that the Independent Review of Adult Social Care (IRASC) found that integration arrangements “worked especially well” where the widest range of functions were delegated. This finding therefore merits consideration of further

prospective amendments of the 2014 Act legislative regime to increase the list of local authority and NHS functions that **must** be delegated to IJBs.

It would also appear that the proposals, as framed, will remove statutory responsibility for social work and social care from local authorities, so a number of consequential amendments to existing social work legislation would be required in order to reflect this.

**Q21.** Are there any other services or functions the National Care Service should be responsible for, in addition to those set out in the chapter?

No.

**Q22.** Are there any services or functions listed in the chapter that the National Care Service should not be responsible for?

The scope of services/functions listed in the consultation go far beyond the recommendations of the IRASC, which made its findings in the context Adult Social Care.

In particular, if the NCS takes over responsibility for Children's Services, concerns are held about problems this may cause in planning and coordinating these services with local authority retained Education Services.

## Scope of the National Care Service

### Children's services

**Q23.** Should the National Care Service include both adults and children's social work and social care services?

☐ Yes

☒ No

Please say why.

Clarity is sought on the precise definition and scope of “Children’s Services” in the context of these proposals.

If the NCS takes over responsibility for Children’s Services, concerns are held about problems this may cause in planning and coordinating with services that would still be retained by local authorities – such as Education. This service in particular has a very close relationship to Children and Families Social Work. Whilst the consultation paper proposed including Children and Families Services in order to avoid “possible fragmentation” if only Adult Services were to move to the NCS, these concerns could be addressed by reviewing the existing supports for young people transitioning from Children and Families to Adult Social Care Services.

Instead, concerns are held about the fragmentation of service delivery should Children’s Services move over to the NCS and further away from local authority retained Education Services. Said services need to work in partnership with each other to ensure they deliver successful outcomes for children and young people.

A suggested alternative model is to deliver Education and Children’s Services under a single local authority department/service. This model has already been adopted by several local authorities who, unlike the Argyll and Bute model, have not delegated Children and Families Social Work functions to the HSCP. It would appear that such models work well and are a natural partnership.

Such a model would assist services in the delivery of existing national policies and legislation in respect of children and young people. This includes:

*Getting it Right for Every Child* (GIRFEC) – this is central to all government policies supporting children, young people and their families. The aim is to help children and young people grow up feeling loved, safe and respected so that they can realise their full potential. GIRFEC is the golden thread that encompasses all our partnership working and provides a shared approach and framework for professional standards.

*Children and Young People (Scotland) Act* 2014 – Part 3 of the 2014 Act seeks to improve outcomes for all children and young people in Scotland by ensuring that local planning and delivery of services is integrated, focused on securing quality and value through preventative approaches, and dedicated to safeguarding, supporting and promoting child wellbeing. While overall responsibility for children’s services planning clearly rests with the local authority and the relevant health board, it is expected that there is collaborative working with other members of the Community Planning Partnership, as well as with children, young people and their families.

*Mental Health (Care and Treatment) (Scotland) Act* 2003 – The 2003 Act provides a structure and requirement for services to be working together to provide support to children, young people and families.

Furthermore, there is a particularly close relationship between Education and Children’s Services in areas such as educational psychology, early years, additional

support needs, child protection, and equalities for children and young people which should continue.

It is suggested that this alternative would appear to be the more effective means to promote joint working between Education and Children's Services. It would be fairly straightforward to implement a single model such as this for all local authorities by making the necessary amendments to the existing *Public Bodies (Joint Working) (Scotland) Act* 2014 legislative scheme (i.e. by removing children and families social work functions from the list of functions that *may* be delegated).

**Q24.** 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.

There is scope for the complexity for children and families accessing services in this regard to increase when considering the educational needs of said children. Many children with disabilities will have additional support needs and it is suggested that the planning and coordinating of supports is split between the NCS and the Education Service (retained by the Local Authority). Therefore such an arrangement needs both organisations to work closely with each other in order to work – especially in cases where the young person is transitioning from children's services/education services through to adult learning disabilities care.

For transitions to adulthood

☐ Yes

☒ No

Please say why.

See answer to Question 23, above. The concerns around possible fragmentation could otherwise be addressed by reviewing the transition planning provisions and processes in place for young people moving from Children's to Adult Services.

For children with family members needing support

☐ Yes

☒ No

Please say why.

The support mechanisms and options for children and adult family members are set out in distinct requirements/criteria for each. Therefore, it is suggested that the consultation proposals won't necessarily in themselves have the effect of reducing complexity in accessing said services.

**Q25.** 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.

There does not appear to be anything within the Consultation Paper detailing how this matter would be dealt with differently from current arrangements under the new proposals.

As the proposals mean that the NCS would be distinct from the NHS, the two organisations would be required to work jointly on this issue, which reflects the present position.

**Q26.** Do you think there are any risks in including children's services in the National Care Service?

☒ Yes

☐ No

If yes, please give examples

Erosion of the close relationship between Children and Families Social Work and Education Services.

Making this important area of social work subject to national standards and central ministerial control may improve consistency of service in some areas, but will also adversely affect many factors, such as shared service provision and jointly funded activity, that are specific to certain local authority areas and/or localities.

Furthermore, no evidence is provided within the consultation paper to suggest that the proposals will resolve any of the current challenges being encountered in relation to managing employees across a number of bodies tasked with achieving outcomes for children and young people. Rather, the proposals would appear to amplify these issues.

## Healthcare

**Q27.** 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.

The current arrangements mean that there is a mechanism in place for IJBs to make decisions and take action specific to their local areas. The underlying aim behind this proposal seems to be to improve local discretion and decision making – whilst imposing national structure, standards, funding and centralised accountability.

Local knowledge, ethical commissioning and collaborative working are already in place within our local area. We work well with our local providers to deliver the best quality services. The potential barriers and resource intensive processes are the patient pathways when community health care services are not available within our locality and these have to be negotiated and agreed with other HSCPs

**Q28.** 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?

Ensure there are appropriate work flows in place and agreements replicating them to ensure the patient pathways are fluid from local community health services to hospital based care services, whether that be locally or in another HSCP. The patient/service user's care plan/health plan should be made available at any stage of the workflow to ensure the best quality service is offered to them.

Therefore ICT system improvements are crucial to allow this to happen successfully.

**Q29.** 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)

**Q30.** 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)

**Q31.** Are there any other ways of managing community health services that would provide better integration with social care?

Ensure workflows are in place that community health services can access to understand integration with social care and vice-versa. For example - better management of staff from hospital discharge to care at home, understanding of pressures, demand and local service delivery.

## Social Work and Social Care

**Q32.** 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:

**Q33.** Do you see any risks in having social work planning, assessment, commissioning and accountability located within the National Care Service?

National Standards will apply, which don't always reflect the priorities or needs being experienced locally in different areas. Local commissioning practises are essential to maintain the close working relationships. This could be lost when being nationally led which would not take account of rural requirements, travel, mileage, staff issues, etc. From a financial perspective, if these activities were procured by the NCS from local authorities, it is highly likely that the procurement arrangements will result in higher indirect costs, diverting funding away from front-line service capacity and improvement. The extra costs would arise from the administration involved in procuring and paying for the services and the VAT liability which the NCS would incur and, under current rules, be unable to recover.

## Nursing

**Q34.** Should Executive Directors of Nursing have a leadership role for assuring that the safety and quality of care provided in social care is consistent and to the appropriate standard? Please select one.

- ☐ Yes
- ☐ No
- ☒ Yes, but only in care homes
- ☐ Yes, in adult care homes and care at home

Please say why

There is evidence (as detailed in the consultation paper) that this worked well during the pandemic so should continue on a more permanent basis.

**Q35.** Should the National Care Service be responsible for overseeing and ensuring consistency of access to education and professional development of social care nursing staff, standards of care and governance of nursing? Please select one.

☐ Yes

☒ No, it should be the responsibility of the NHS

☐ No, it should be the responsibility of the care provider

Please say why

On the basis that the NHS remain the employer of said nursing care staff, it should be their responsibility.

**Q36.** If Community Health and Social Care Boards are created to include community health care, should Executive Nurse Directors have a role within the Community Health and Social Care Boards with accountability to the National Care Service for health and social care nursing?

☒ Yes

☐ No

If no, please suggest alternatives

## Justice Social Work

**Q37.** 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 were no findings within the IRASC to support this proposal as it falls outwith the scope of that Review. The findings were that integrated arrangements currently in place were working well where all functions have been delegated to the greatest extent. Therefore, the solution to any issues faced may lie through reviewing the 2014 Act provisions as referred to in the answer to Question 20, above.

**Q38.** 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.

**Q39.** 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

**Q40.** 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:

**Q41.** 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:

**Q42.** 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.

They should retain their current independent status and structure as the stakeholders currently involved are key to this area of work.

## Prisons

**Q43.** 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.

No view

**Q44.** 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

**Q45.** 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

**Q46.** 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

**Q47.** 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.

Should IJBs be reformed to CHSCBs, they should retain a role in Alcohol and Drug Partnerships.

**Q48.** Are there other ways that Alcohol and Drug services could be managed to provide better outcomes for people?

Better links to mental health services and housing support services.

**Q49.** Could residential rehabilitation services be better delivered through national commissioning?

☒ Yes

☐ No

Please say why.

| Possibility for greater service provision if delivered via this route as there is a limited number of residential rehabilitation services within Scotland. A national framework may be the most appropriate tool to deliver best value and quality for the service users – this is proven with the Scotland Excel specialist children residential care framework. |
|---|

**Q50.** What other specialist alcohol and drug services should/could be delivered through national commissioning?

| Any other specialist service that has a small market provision which is accessed by all the HSCPs |
|---|

**Q51.** 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?

| Improved patient/service user pathways when need identified to ensure that frameworks/contracts are in place to allow the service user access to the most appropriate care/health service for their needs. |
|---|

## Mental Health Services

**Q52.** 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

| |
|---|
| |

**Q53.** 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?

| Ensuring that the standards/targets set match with local considerations in each authority area. |
|---|

## National Social Work Agency

**Q54.** 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

Procurement/provision of training and development nationally to level the playing field in access

Potential to raise publicity, status and value of the role as a profession – link to recruitment and retention

Within local government there is a high standard of training and continuous professional development available to social work employees. There would, however, be benefits in a NSWA procuring this training on behalf of multiple providers. This may reduce costs and increase access across the sector.

In raising the status of social work, it may also lead to increased publicity of the value of the social work role.

**Q55.** Do you think there would be any risks in establishing a National Social Work Agency?

How is this different to the national forum set out in later question? Clarity is required on the remit and purpose of a NSWA.

Beyond Mental Health Officers, there are currently limited issues with the recruitment and retention of social workers. Unless the purpose is very specific and clear, the

creation of such a body may lead to calls from other professions for similar bodies to be developed to cover those professions.

A range of equality and equal pay issues would be created if social workers were to be governed by a separate body which determined pay and grading. These could have significant financial consequences across the remainder of the local government worforce, if it remained the employer. In terms of workforce planning, it is difficult to see how a workforce plan dedicated to social workers alone would add value to the overall health and social care workforce.

**Q56.** Do you think a National Social Work Agency should be part of the National Care Service?

☐ Yes

☒ No

Please say why

Depends on the final remit of the agency. If the NSWA were to consider matters such as applied research, standards or holding the delivery of social work services to account, it may be better as an independent body.

However if the remit does not include an assessment role of the National Care Service, then it may be beneficial to incorporate it into the NCS.

It should have its own independent status in order to fully preserve and protect the interests of social work staff.

Would help to have a governance map to show how all the existing and proposed regulatory bodies link together to support workforce, service delivery etc in the future governance model.

**Q57.** 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 Council opposes the suggestion that a NSWA should have a lead role in setting a national approach to terms and conditions, including pay. This is a responsibility that must rest with employers who otherwise are left with risks and others are taking the decisions.

There is also a need to ensure there is no duplication between what NCS is doing and what employers do/what employers are legally required to do, and also no duplication with the numerous other bodies who undertake such work at present.

It would be helpful to have national standards and best practice, but the purpose of this in the context of the other bodies, employers and providers, needs to be considered and the added value for our communities needs to be clear.

The NSWA should not have a role nationally in Workforce Planning as there are already integrated workforce plans for HSCPs, which include social work and social care. These feed into national integrated HSC workforce plans that then inform national initiatives and priorities. Centralising workforce plans risks losing connection with local labour market information and situations, particularly in remote areas. (See below Q91 - workforce planning.)

## Reformed Integration Joint Boards: Community Health and Social Care Boards

### Governance model

**Q58.** "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.

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.

A viable alternative to implement a sole model for local delivery of the above services is through amending Section 1(4) of the *Public Bodies (Joint Working) (Scotland) Act* 2014 to limit the possible integration models to one (i.e. the IJB/body corporate model). This particular aim can therefore be achieved by reviewing existing legislative regimes.

**Q59.** 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

**Q60.** What (if any) alternative alignments could improve things for service users?

If CHSCBs are to be set up, currently patient pathways within our local area require patients to utilise other HSCP services for community health services and acute services that cannot be delivered within our local area. This has resulted in constant and lengthy discussions between HSCPs to agree service specifications, SLAs and funding. The patient pathway should be taken into account and a decision taken at policy/strategic level to determine any new CHSCB boundaries for community/acute health services to be delivered to the maximum benefit of our service users.

Reviewing patient pathways to determine the best alignment for service users is important for health services. For care services however, the local knowledge, community partnership working and good relationships mean that it is essential that the commissioning and procurement element remains with the local area. The alignment opted for should also be adequately representative of all local communities falling within it (possibly through membership of the CHSCB).

**Q61.** Would the change to Community Health and Social Care Boards have any impact on the work of Adult Protection Committees?

This would be unlikely on the basis that the CHSCBs still contain a membership which adequately reflects the local population and communities.

**Membership of Community Health and Social Care Boards**

**Q62.** 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?

Social Work representatives (such as the Chief Social Work Officer for the local authority), nursing representatives, third sector representatives, partner provider representatives, GP representatives and union representatives.

**Q63.** "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

**Q64.** 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?

The Boards need to hear from service users to determine the quality of services being delivered to them. This could be reported via contract management if contracted partner providers delivering it and via service user questionnaire feedback from in-house/nursing services – but it is key to hear from our service users as to how services are actually delivering their outcomes. A token service user representative will not be appropriate.

**Community Health and Social Care Boards as employers**

**Q65.** Should Community Health and Social Care Boards employ Chief Officers and their strategic planning staff directly?

☒ Yes

☐ No

**Q66.** Are there any other staff the Community Health and Social Care Boards should employ directly? Please explain your reasons.

As well as the Chief Officers and strategic planning staff (such as Chief Financial Officer, etc.) CHSCBs would require a whole range of support services which are currently (in respect of IJBs) provided by one or both of the parent bodies (Councils and NHS Boards) eg. legal services, governance staff, data protection/FOI team, complaints handlers, procurement teams, finance staff, member services, HR teams, payroll, and other related staff/teams. Given that the parent bodies would no longer be delivery partners, it would not be appropriate for the CHSCB to use their staff/resources as per current arrangements unless the CHSCB contract with them for these essential services.

The proposals potentially have significant implications for large parts of the Local Government workforce as detailed in the above paragraph. The consultation document is not explicit regarding the future employer status of staff working in the referenced service areas and whether this would be transferred to a National Care Service or the proposed Community Health and Social Care Boards. Further clarity is required to avoid any unnecessary uncertainty.

If the workforce is to remain with the current employer, it must be noted that the employer is assuming all the employment risk but with limited or no ability to provide direction on what is needed locally. This is very different to the current arrangements with HSCPs which operate in partnership.

Furthermore, there is a lack of information within the consultation proposals as framed on the role of the local authority's Chief Social Work Officer. More clarity is required on the operation of this statutory role under these proposals and/or any changes that are required as a result.

## Commissioning of services

Argyll and Bute Council comments on IRASC recommendations/proposals:-

Recommendation 32: Commissioners should focus on establishing a system where a range of people, including people with lived experience, unpaid carers, local communities, providers and other professionals are routinely involved in the co-design and redesign, as well as the monitoring of services and supports. This system should form the basis of a collaborative, rights based and participative approach.

*The body should ensure that the way it procures care and support services includes a focus on personal outcomes, strategic/commissioning planning, the involvement of those people who might use care and/or support services and their carers and take a human rights based approach to the delivery of care services*

*The body should ensure equal treatment and non-discrimination and transparency and proportionality where relevant when awarding any care contracts.*

*Strategic and collaborative commissioning require us to work together and with people who use services, carers, providers and communities to determine the services required for the future, how these services will be provided and by who they will be provided. This may mean disinvesting in current provision to reinvest in different things. It also requires consideration of the market of service and support providers. Procurement is not the only way to secure services, but as a process it is pivotal to ensuring that the outcomes determined by strategic commissioning plans are achieved.*

*The Council is already working on making commissioning more collaborative and ethical so that the system and relationships can best facilitate the support that people need to live well.*

*The collaborative approach we have with our partner providers works well, and this together with our methods of procurement in order to meet ethical commissioning and continuity all adhering to the light touch regime means more effective and efficient outcomes for our service users.*

*Contracts/frameworks are in place for all care services having utilised the "light touch regime" ensuring service user choice, continuity of care and sustainability of service delivery in our rural area*

*The procurement and contract management team as a whole whether it be the purchase of goods, supplies, travel, accommodation or complex care packages all support our HSCP/IJB partners achieving economies of scale for all. Why should this be changed?*

Recommendation 33: A shift from competitive to collaborative commissioning must take place and alternatives to competitive tendering developed and implemented at pace across Scotland. Commissioning and procurement decisions must focus on the person's needs, not solely be driven by budget limitations.

*Collaborative commissioning needs to be better defined as well as alternatives to competitive tendering. There is a significant care market within Scotland with a mix of private, third sector and local authority delivered care. All of these organisations are capable of delivering good quality care and even if a decision is made on 100% quality and choice it is inevitable that budget discussions are required to ensure best value, equal treatment and ethical commissioning is being delivered.*

*Strategic commissioning requires a public body to work together and with people who use services, carers, providers and communities to determine the services required for the future, how these*

*services will be provided and by who they will be provided. This may mean disinvesting in current provision to reinvest in different things. It also requires consideration of the market of service and support providers. Procurement is not the only way to secure services, but as a process it is pivotal to ensuring that the outcomes determined by strategic commissioning plans are achieved.*

*Collaborative commissioning can take place but it is always important to ensure there a balance in the care market that offers and delivers value and quality for everyone.*

Recommendation 34: The establishment of core requirements for ethical commissioning to support the standardisation and implementation of fair work requirements and practices must be agreed and set at a national level by the new National Care Service, and delivered locally across the country.

*The Scottish Gov have introduced this via Implementation of Fair Work First in Scottish Pubic Procurement SPPN03/2021 which ensures a standardisation and implementation of fair work requirements and practices. The Fair Work First criteria that public bodies have to show that are being delivered through regulated procurements are:*

- *appropriate channels for effective voice, such as trade union recognition;*
- *investment in workforce development;*
- *no inappropriate use of zero hours contracts;*
- *action to tackle the gender pay gap and create a more diverse and inclusive workplace; and*
- *providing fair pay for workers (for example, payment of the real Living Wage)*

*We are required to report these via our Annual Procurement Report.*

Recommendation 35: To help provide impetus and support to the adoption of a collaborative and ethical approach to commissioning, the idea from CCPS (Coalition of Carers and Support Providers) of pressing pause on all current procurement should be fully explored in the context of a National Care Service, with a view to rapid, carefully planned implementation.

*The Council utilises the Light Touch Regime, Schedule 3 of the Public Contract (Scotland) Regulations 2015 describes the range of services covered by that regime. The 'light-touch' rules applies to contracts with a value equal to or greater than £663,450. All our care contract utilise it to allow a more flexible procurement process to be used but this must be supported by a detailed assessment and the main treaty principles of transparency, equal treatment and proportionality still apply. It is therefore likely that a mix of traditional procurements and more flexible processes under LTR will be used source the services in this category.*

Recommendation 36: The care home sector must become an actively managed market with a revised and reformed National Care Home Contract in place, and with the Care Inspectorate taking on a market oversight role. Consideration should be given by the National Care Service to developing national contracts for other aspects of care and support. A 'new deal' must form the basis for commissioning and procuring residential care, characterised by transparency, fair work, public good, and the re-investment of public money in the Scottish economy.

*The NCHC requires to be revised and reformed, the contract has been in place for many years and needs to be fully revisited. SG investment is essential, annual negotiations with Scottish care are always difficult and long and highlight the need for re-investment in care homes.*

Recommendation 37: National contracts, and other arrangements for commissioning and procurement of services, must include requirements for financial transparency on the part of providers along with requirements for the level of return that should be re-invested in the service in order to promote quality of provision and good working conditions for staff.

*Best value and financial transparency are essential to the delivery of any procurement or commissioned service. As a Council we utilise a variety of different methods to ensure best value and transparency – open book requirements, financial assessment, ensuring high quality service provision is being delivered and managed via appropriate training opportunities, and good working conditions for staff*

Recommendation 38: A condition of funding for social care services and supports must be that commissioning and procurement decisions are driven by national minimum quality outcome standards for all publicly funded adult social care support.

*As a Council within our quality assessment it is essential that our partner car providers are delivering quality outcome standards, there is a minimum level set with our tender and contract requirements. Indeed through contract management if it is identified that there are any quality concerns/issues, the Care Inspectorate have reduced grading, we as a council work with our partner providers to review and improve their grading with lessons learned, training, and sharing of best practice. As a rural local authority it is essential we maintain the delivery of sustainable care services, therefore we work with our HSCP colleagues and partner providers to achieve this.*

Recommendation 39: A decisive and progressive move away from time and task and defined services must be made at pace to commissioning based on quality and purpose of care – focused upon supporting people to achieve their outcomes, to have a good life and reach their potential, including taking part in civic life as they themselves determine.

*Ideally services should be commissioned to ensure people achieve their outcomes however these will require a budget which will require to deliver best value and allow the providers who are chosen to deliver these outcomes to deliver these within the set budget*

Recommendation 40: Commissioning decisions should encourage the development of mutually-supportive provider networks as described above, rather than inhibiting co-operation by encouraging fruitless competition.

*Should a commissioning strategy highlight the need to develop public social partnerships with third sector bodies (not commonly used and also known as alliancing) then better guidance should be provided by the Scottish Government. There are few examples of PSP across Scotland, potentially due to the lack of understanding of this type of vehicle to deliver services. They are regularly highlighted by the third sector as a tool to deliver services, however PSPs are not a method to avoid procurement/best value practices and good quality ethical commissioned services can deliver the same outcomes for service users.*

Recommendation 41: Commissioning and planning community based informal supports, including peer supports, is required to be undertaken by Integration Joint Boards and consideration of grant funding to support these is needed.

*Grant funded support needs to be reviewed to ensure that it meets Fair Working First principles. Many third sector groups have long standing grants provided to them by Councils and HSCPS, however many of these are not reviewed, and updated therefore third sector groups could be delivering vital preventative services for the council/hscp without the appropriate funding. This type*

*of support requires to be incorporated within commissioning strategies as they form part of the market of care delivery.*

Recommendation 44: Putting in place national minimum terms and conditions as a key component of new requirements for commissioning and procurement by Integration Joint Boards. Specific priority should be given to pay, travel time, sick pay arrangements, training and development, maternity leave, progression pathways, flexible pathways and pension provision. The national evaluation of terms and conditions should be undertaken to inform these minimum standards and these should be reviewed as required.

*The Implementation of Fair Work First in Scottish Public Procurement: SPPN 3/2021 sets this out and details the 5 criteria that should be adhered to and provides detailed good examples as described within this recommendation.*

The NCS will be responsible for governance and assurance that CHSCBs comply with the Structure of Standards and Processes, through oversight of commissioning and procurement processes at a local level. CHSCBs will report their progress to the NCS national commissioning and procurement team.

*Are we looking at another PCIP assessment or specific questions in Annual Procurement Report requirements?*

The NCS will create and manage a professional development programme to ensure all commissioning and procurement professionals working within social care have the appropriate skills to effectively implement ethical commissioning and procurement.

*What will this look like, we have had social care commissioning type development programmes which have failed, nationally many “commissioning” teams are moving over to “procurement” teams who have the necessary skills to deliver procurement and commissioning albeit there may be CPD required for “ethical commissioning”.*

The NCS will be responsible for market analysis and will work with partners to develop a thorough understanding of the market and share this information with CHSCBs.

*Market analysis is an essential part of any procurement/commissioning activity. I would have concerns about the lack understanding of rural locations which impact significantly on the care market with our council area. We have a significant number of “local” companies who we need to successfully deliver care services within Argyll and Bute. Our well established market analysis for care services is an essential part of our commissioned process.*

The NCS will establish a national commissioning and procurement team to deliver this role.

*Current experience shows the level of contract management is very much desk top, completing of KPIs, returns to the national bodies. The national care home contract, contract management tool for example will show CI grade, and financial standing, however it does not have 1/4ly contract management meetings with the partner provider, it does not have regular, daily/weekly dependent on the nature of the issue engagement with the provider to help resolve the situation such as staff shortages, requirement of training, equipment, better engagement with nursing team – this is all done locally regardless of the “contract management” activity that is provided nationally. Without it, we would not have a good understanding of the quality and sustainability of our partner providers in our local area.*

**Structure of Standards and Processes**

**Q67.** 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

Comments:

The formation of the National Care Service, as it is currently outlined, would have considerable implications for local decision making.

The standards and processes must be in keeping with Care Inspectorate requirements, and flexibility of the light touch regime, linking ethical commissioned care services with improved assessment tools to clearly identify outcomes for our service users, and by allowing appropriate budgets to be allocated to them/the partner provider to deliver these outcomes. Best value is essential to deliver this so processes must clarify this to manage the expectations of all. The standards must adhere to the SPPN03 to be consistent across all procurement activity and clarification should be provided as to how this is evidenced i.e. will it be included within our Annual Procurement Report requirement as indicated in the SPPN or will there be an additional assessment by the NCS on progress of this delivery of this model – this would be an additional burden on public bodies that would not be appropriate.

In respect of the expectations and benchmarking of people standards (skills, capabilities and capacity) required to commission and procure quality services - What will this look like? We have had social care commissioning type development programmes which have failed, nationally many “commissioning” teams are moving over to “procurement” teams who have the necessary skills to deliver procurement and commissioning albeit there may be CPD required for “ethical commissioning”.

**Q68.** Do you think this Structure of Standards and Processes will help to provide services that support people to meet their individual outcomes?

☒ Yes

☐ No

Comments:

But will require significant financial investment to deliver the support that people will need to meet their individual outcomes whether they may be preventative or early intervention. The structure of standards and processes are only a small part of what would be needed to deliver the NCS's proposals. Managing expectations is essential.

**Q69.** Do you think this Structure of Standards and Processes will contribute to better outcomes for social care staff?

☒ Yes

☐ No

Comments:

Albeit in a small way, the implementation of SPPN3 fair work practices in Scottish procurement will ensure fair work practices are being delivered. This coupled with contract management throughout the term of the contract will be essential to ensure better outcomes for social care staff. Financial investment is key, to sustain care providers, and ensure reinvestment and growth within the care sector.

**Q70.** Would you remove or include anything else in the Structure of Standards and Processes?

Yes, reference to appropriate policy notes which would require to be put in place in order that national/local bodies are delivering a consistent approach across the care sector.

**Market research and analysis**

**Q71.** 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

Local authorities providing the info to support the Community health and social care boards. We have detailed market analysis and local knowledge as to our care market. We are a rural local authority and as such are acutely aware of the range of issues that we have to manage to deliver quality care services in our locality. Staffing, continuity of care, rural location of service users all feed into the market knowledge that is not always taken into account, managed and supported at a national procurement level.

Market analysis is an essential part of any procurement/commissioning activity. The Council would have concerns about the lack of understanding of rural locations which impact significantly on the care market with our council area. We have a significant number of "local" companies who we need to successfully deliver care services within Argyll and Bute. Our well established market analysis for care services is an essential part of our commissioned process.

**National commissioning and procurement services**

**Q72.** 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

Comments:

Currently Scotland Excel have specific frameworks for complex and specialist residential services there are only a small number of specialist suppliers in the market and there has been years of negotiation and partnership working to get

us to where we are today. We have been fully part of the process, being part of the user intelligence group and regularly meeting with Scotland Excel. It works well and ensures appropriate rates/outcomes/conditions are agreed nationally for these types of service users to ensure best value and good outcomes are delivered nationally for consistent approach.

## Regulation

### Core principles for regulation and scrutiny

**Q73.** Is there anything you would add to the proposed core principles for regulation and scrutiny?

No.

**Q74.** Are there any principles you would remove?

No.

**Q75.** Are there any other changes you would make to these principles?

Scrutiny and assurance ***must*** and not "should" take account of legislative requirements, Scottish government policy, national standards and codes of practice.

There should be clear guidelines/standards that providers of care should be working to and scrutinised against.

The principles should also set out the improvement process. What would be required for care providers? How would the scrutiny take place? Would there be a scoring matrix based on policy, standards and the relevant code(s) of practice?

### Strengthening regulation and scrutiny of care services

**Q76.** 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.

Yes in principle. However, detailed examples would need to be provided of what is proposed. Both condition and improvement notices require to be fair and transparent and there needs to be a due process to allow for these to be completed and reviewed for a period of time after completion.

In relation to emergency cancellation of a service under Section 65 of the 2010 Act, the current test of "serious risk" is proportionate in the circumstances given the significant effect of a successful application under this provision. As a result, the legal bar is currently understandably high and should not be lowered purely for the sake of expediency.

**Q77.** Are there any additional enforcement powers that the regulator requires to effectively enforce standards in social care?

No.

## Market oversight function

**Q78.** Do you agree that the regulator should develop a market oversight function?

☐ Yes

☒ No

**Q79.** Should a market oversight function apply only to large providers of care, or to all?

☒ Large providers only

☐ All providers

Comment: Large providers only – Argyll and Bute only have two large care home providers in our locality. We contract manage all of our care homes and identify financial issues through our own financial checks and work with our homes to find solutions – whether that be assisting with funding for agency nursing staff, etc.

We also utilise Scotland Excel's team who are responsible for the NCHC and they provide "market" information which is useful for our two large homes but not so much for our remaining independent care homes.

**Q80.** Should social care service providers have a legal duty to provide certain information to the regulator to support the market oversight function?

☐ Yes

☒ No

Comment: This information is readily available via contract management activity. There is no need to make it a legal duty. If the Council/HSCP has a good and close working relationship with their partner providers, which we do, then this is not an issue.

**Q81.** If the regulator were to have a market oversight function, should it have formal enforcement powers associated with this?

☐ Yes

☒ No

**Q82.** 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

This should remain a local function as the Council are ensuring the most appropriate care is provided within our local communities. Councils have the knowledge, expertise and relationships with these providers of care. Therefore, good practice is shared and lessons are learned with each other on a regular basis.

## Enhanced powers for regulating care workers and professional standards

**Q83.** 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, it would be beneficial for the codes of practice to compel employers to adhere to the code and to implement sanctions. However, the code requires to go further and support "employers" who are service users employing a personal assistant. Personal assistants require to be adhering to the code of practice and professional standards especially since they are individuals who are employed by the service user who may need reassurance that the personal assistant is adhering to the regulations and professional standards.

It may be helpful to have further discussions with employers on the options available, and the issues this proposal is intending to address, in order to find an effective solution within the context of employment legislation.

It must also be remembered that this is a relatively low paid service, which is facing increasing regulation and professionalism. Other sectors which have similar procedures are often far higher paid (e.g., teachers, nurses) to reflect the level of responsibility.

It would be helpful to better understand what this proposed change is aiming to achieve. Codes of Practice already exist through the SSSC. These could, as an alternative, depending on the purpose of this suggestion, be strengthened without creating new regulations.

**Q84.** Do you agree that stakeholders should legally be required to provide information to the regulator to support their fitness to practise investigations?

Yes - Agree that all relevant information must be provided to support investigations. This is currently the case in local government and would be difficult to imagine a situation where this would not be provided.

**Q85.** How could regulatory bodies work better together to share information and work jointly to raise standards in services and the workforce?

By ensuring there is a clear link between the regulatory body carrying out reviews/inspections and the regulatory body responsible for workforce if issues are identified and improvements require to be put in place. This could be an area of activity for the proposed national forum.

**Q86.** What other groups of care worker should be considered to register with the regulator to widen the public protection of vulnerable groups?

Personal assistants, health care/social care assistants and day care workers.

Third sector groups delivering services to vulnerable groups that currently don’t require care inspectorate require care inspectorate registration but who are still delivering an essential service should also be considered.

## Valuing people who work in social care

### Fair Work

**Q87.** Do you think a 'Fair Work Accreditation Scheme" would encourage providers to improve social care workforce terms and conditions?

☒ Yes

☐ No

Please say why.

We firmly support the Fair Work commitment. Local government is considered to be a Fair Work employer.

Accreditation is a positive move, but it is unlikely to improve Terms and Conditions unless it is enforceable with some form of monitoring.

To make a difference to T&Cs, there would need to be a requirement for providers to achieve accreditation, including a minimum set of T&Cs to be in place, before a provider is able to access contracts/work.

It is worth highlighting that the introduction of minimum pay and terms and conditions may result in less movement of employees across social care employers, which could assist with retention of staff, but would not necessarily result in increased capacity within social care.

**Q88.** 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…)

| | |
|---|---|
| x | Improved pay |
| x | Improved terms and conditions, including issues such as improvements to sick pay, annual leave, maternity/paternity pay, pensions, and development/learning time |
| x | Removal of zero hour contracts where these are not desired |
| x | More publicity/visibility about the value social care workers add to society |
| x | Effective voice/collective bargaining |

| | |
|---|---|
| x | Better access to training and development opportunities |
| x | Increased awareness of, and opportunity to, complete formal accreditation and qualifications |
| x | Clearer information on options for career progression |
| x | Consistent job roles and expectations |
| x | Progression linked to training and development |
| x | Better access to information about matters that affect the workforce or people who access support |
| x | Minimum entry level qualifications |
| x | Registration of the personal assistant workforce |
| | Other (please say below what these could be) |

Please explain suggestions for the "Other" option in the below box

All of these areas are important if Fair Work is to be achieved.

- Pay is clearly of importance as similar rates of pay can be obtained in retail but without the requirement for professional regulation/membership etc, but it is not clear whether paying more would resolve the capacity issues across the social care workforce – it is only one aspect
- The consequences for the remainder of the workforce employed by any provider including local government, must also be considered if changes were made to those areas listed for social care
- More publicity and visibility on social care and the value of the profession, and recognizing this as a career, with career progression, is very important
- working environment, culture, leadership, team relationships etc are also important components.
- Work patterns need to be more flexible and self-managed if we are to ensure appropriate work life balance for the profession
- Investment in systems which enable a more flexible workforce, self-managing their hours, would be of assistance.

Priorities

- More publicity/visibility about the value social care workers add to society
- Clearer information on options for career progression

- T&Cs which lead to a more flexible and self managed workforce with work life balance
- Progression linked to training and development – with more open access to courses being run appropriately
- Consistent job roles and expectations

It is important to highlight that local government is good in a number of these areas, but may benefit from national support in promotion of social care as a profession with good career progression. Local government also has reasonable levels of pay across the profession, as well as good terms and conditions (all shared across the local government workforce).

**Q89.** How could additional responsibility at senior/managerial levels be better recognised? (Please rank the following in order of importance, e.g. 1, 2, 3…):

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

Please explain suggestions for the "Other" option in the below box

- Improving access to training and development opportunities to support people in this role – including better use of what already exists, e.g., access to NHS training such as project lift

- Other – Changes and improvements to work life balance through increased flexibility and more self-management of this

- Other – improved support for wellbeing with better accessibility to those support mechanisms currently available for NHS

Important to recognise that senior/managerial level pay is evaluated through the employer's scheme and so must fit within those parameters.

**Q90.** 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

No, based on the purpose being suggested.

A forum for the purpose of sharing best practice, sharing information, cross sector support and benchmarking would be of benefit – this would enable sharing of good standards across multiple providers and employers

A forum for the purposes suggested would be difficult to manage given the range of stakeholders, providers and the context in which they work. It would be a significant size and difficult to see how employees and providers could be properly represented. It would also duplicate the work of already undertaken within existing forums which deal with matters such as terms and conditions, collective bargaining, etc

## Workforce planning

**Q91.** 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)

- If funding is available for workforce planning capacity and support within local government, this would be welcomed, as would extra funding for training
- Workforce planning within the front line social care workforce is very much influenced by local requirements and demands, particularly in remote and island areas. It is difficult to see how this could be undertaken on a national basis

- It is unclear how national workforce planning could result in improvements to social care which could not be achieved if further funding were provided to local government to undertake this in a way which reflects and supports the local workforce at a local level
- In terms of the current workforce planning requirements for HSCPs, it is not currently clear what data sets are required, what Scottish Government would wish to be recorded and reported, etc. Any future requirements for this (including those currently being developed) would benefit from being in a standard format
- There may be benefits in considering how Scottish Government can add value to the workforce planning process, if workforce planning continues to be undertaken at a local level in response to local needs. For example, work could be done to support common issues and themes arising from local workforce plans. This may be around areas such as promotion of social care as a profession, support for recruitment, support to grow the capacity of the workforce in social care, support to ensure sufficient access to university and college courses to support expansion of capacity, etc

If funding is available for workforce planning, it would be beneficial to provide additional capacity and support with dedicated posts within local government. This would be welcomed as would extra funding for training. There may also be merit in providing investment to workforce employers, to ensure they have the necessary systems in place to provide easy access to the required data

## Training and Development

**Q92.** Do you agree that the National Care Service should set training and development requirements for the social care workforce?

☒ Yes

☐ No

Please say why

Yes, if the aim is to set a consistent standard across the social care workforce

- Standards are however, currently set by SSSC – it would be helpful to receive clarity on how the SSSC standards will link to any standards set by the NCS. It would be important to avoid any duplication. The Care inspectorate oversee and monitor current standards so clarity on their role in relation to the workforce would be helpful.

- o Training and development should also flow from workforce plans as well as professional standards so there needs to be a link between both and with local providers
- o Local government already has good structured arrangements in place for training and development, as well as the recording and monitoring of this. The methods used for this within local government could be considered more widely by other providers
- o A coordinated approach to the procurement and provision of training across Scotland may bring added value, as would the consistent provision and delivery of this training. This would be a positive development and ensure standards across Scotland are similar, enhancing the professional and increasing employability.

**Q93.** 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

**Q94.** Do you agree that all personal assistants should be required to register centrally moving forward?

☒ Yes

☐ No

Please say why.

Yes, personal assistants should register in line with other social care staff and adhere to all other relevant codes of practice code of practice and professional standards especially since they are individuals who are employed by the service user who may need reassurance that the personal assistant is adhering to the regulations and professional standards.

**Q95.** 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)

**Q96.** Should personal assistants be able to access a range of training and development opportunities of which a minimum level would be mandatory?

☒ Yes

☐ No