

National Care Service (Scotland) Bill – call for views: SSSC response, September 2022

The Scottish Social Services Council is the regulator for the social work, social care and early years workforce in Scotland. Our work means the people of Scotland can count on social services being provided by a trusted, skilled and confident workforce.

We protect the public by registering social service workers, setting standards for their practice, conduct, training and education and by supporting their professional development. Where people fall below the standards of practice and conduct we can investigate and take action.

We:

- publish the national codes of practice for people working in social services and their employers
- register people working in social services and make sure they adhere to the SSSC Codes of Practice
- promote and regulate the learning and development of the social service workforce
- are the national lead for workforce development and planning for social services in Scotland
- are an ONS (Office for National Statistics) statistics provider.

We welcome the opportunity to comment on the call for views and the next steps for the National Care Service (NCS).

General questions about the Bill

Q1. The Policy Memorandum accompanying the Bill describes its purpose as being “to improve the quality and consistency of social work and social care services in Scotland.” Will the Bill, as introduced, be successful in achieving this purpose? If not, why not?

We believe that the Bill is a landmark moment and a key starting point for improving the quality and consistency of social work and social care services.

Q2. Is the Bill the best way to improve the quality and consistency of social work and social care services? If not, what alternative approach should be taken?

The NCS can be a catalyst for improving quality and consistency of social work and social care services, and a key part of a societal shift where social care has parity with health. The Bill, the NCS and the subsequent secondary legislation are a fundamental starting point for that change. We agree with the Independent Review of Adult Social Care's recommendation that the NCS should be established in statute.

Q3. Are there any specific aspects of the Bill which you disagree with or that you would like to see amended?

We have no concerns about the Bill at this stage. We welcome the creation of the National Social Work Agency (NSWA). We recognise that further work is required to explore the relationship between the NSWA and our role. We will work closely with the Office of the Chief Social Work Adviser (our Sponsor in Scottish Government) to support the NSWA's establishment. As the regulator for the social service workforce, the SSSC has been and is uniquely placed to continue developing a detailed understanding of the skills and knowledge required by the sector. We develop and set standards for practice for the social service workforce, through both the qualifications required for registration and setting continuous professional learning requirements for the workforce, and work as in partnership across the UK to maintain, review and develop the national occupational standards and qualifications. We approve and quality assure the delivery of approved programmes such as the social work degree. We look forward to working with the NCS to deliver the training and learning that the sector needs.

Q4. Is there anything additional you would like to see included in the Bill and is anything missing?

We did not identify anything additional at this stage.

Future secondary legislation

Q5. The Scottish Government proposes that the details of many aspects of the proposed National Care Service will be outlined in future secondary legislation rather than being included in the Bill itself.

- **Do you have any comments on this approach?**
- **Are there any aspects of the Bill where you would like to have seen more detail in the Bill itself?**

We welcome the plan to set out the detail of the NCS in future secondary legislation. We also welcome the focus on wider changes that will enable further improvements in social work and social care. We note the strong support for proposals which would legally require stakeholders to provide information to support fitness to practise investigations. We anticipate that future legislation will include steps to deliver this key priority.

We anticipate that secondary legislation could support our efforts to modernise regulation and would complement the NCS principles in this Bill. For example, our Future Proofing Programme (FPP) has a focus on ensuring that our regulatory system is clear, transparent and raises the standards of practice in the sector. The FPP includes steps to make registration easier and to create flexible qualifications. Over 6,500 people responded to our recent consultation on these proposals and the majority were supportive of our proposals. Some of our proposals will require legislative change. The FPP also has a focus on revising the Codes of Practice for Social Service Workers and Employers, a key part of Keeping the Promise to care experienced infants, children, young people, and their families.

The NCS Statement of Benefits paper published alongside the Bill reiterates the commitment to ensure that new groups of currently unregistered workers can be added to the register where it is in the public interest to do so. The paper highlights the need for a better understanding of the benefits and challenges around regulating Personal Assistants. We welcome both statements, and we will continue supporting work around both areas.

Transfer of services to the National Care Service

Q6. The Bill proposes to give Scottish Ministers powers to transfer a broad range of social care, social work and community health functions to the National Care Service using future secondary legislation. Do you have any views about the services that may or may not be included in the National Care Service, either now or in the future?

Our view is that the NCS should include adults and children's social work and social care services, along with justice. We believe that an integrated approach aligns with the aspiration of providing social care services that support people at all stages. We appreciate that this process will take time and that further work is needed to determine the best way to integrate these services.

It is critical that the NCS considers its relationship with Early Learning and Childcare (ELC) from the outset. The workforce is a key part of the link between ELC and social care. There is evidence of workers moving between these sectors. Our Future Proofing Programme (FPP) has a focus on supporting flexibility of qualifications and movement for workers across these sectors.

The link with children's social services, youth services, community justice and adult social care service must be maintained and strengthened. Some consideration will have to be given to how ringfenced funding for justice services is managed.

The requirement on Scottish Ministers to consult publicly on any proposed transfer relating to children's and justice services is a welcome move. This plan reflects the significant volume of work that will be required before any transfer can take place.

Q7. Do you have any general comments on financial implications of the Bill and the proposed creation of a National Care Service for the long-term funding of social care, social work and community healthcare?

It is critical to ensure that sufficient funding is available to establish and support the National Care Service and the long-term funding of these services.

We also need to ensure that appropriate funding is available so that people who use services are protected by a regulated and valued workforce that is fit to practise.

Impact Assessments

Q8. Do you have any comments on the contents and conclusions of the impact assessments or about the potential impact of the Bill on specific groups or sectors?

We welcome the focus on the benefits and implications for the workforce throughout these assessments. This includes the importance of delivering fair work and the promotion of the wider economic benefits of social care and a highly skilled workforce.

We strongly support the statements in the Policy Memorandum about the importance of reliable workforce data and the need to model and forecast future workforce trends. The importance of workforce data is reinforced by the Bill's Impact Assessments which reference the Official and National Statistics published by the SSSC. The Equality Impact Assessments uses the latest data at the time of writing, December 2020. In August 2022 we published the equivalent Workforce Data Report for December 2021. The impact assessments provide a key starting point for understanding change and it will be important to monitor all key data sources – including workforce data – to understand and demonstrate the effectiveness of the changes.

We believe that the NCS will bring positive benefits and will help to meet the needs of the Public Sector Equality Duty (PSED). It will be critical to maintain that engagement with people who use services, carers and others to ensure that this is realised.

Questions about the Financial Memorandum

Q9. Did you take part in any consultation exercise preceding the Bill and, if so, did you comment on the financial assumptions made?

We did take part in the consultation. We did not comment on the financial assumptions.

Q10. If applicable, do you believe your comments on the financial assumptions have been accurately reflected in the financial memorandum (FM)?

Not applicable.

Q11. Did you have sufficient time to contribute to the consultation exercise?

Yes.

Q12. If applicable, are you content that your organisation can meet any financial costs that it might incur as a result of the Bill? If not, how do you think these costs should be met?

It is difficult to comment on the financial implications of the NCS until we know more about the implications for the SSSC. The FM notes that the implementation of 'Anne's law' may result in an increase in the number of complaints in the short-term. We note that the Scottish Government does not anticipate a substantial increase in the number of complaints about staff and that the implications for SSSC are expected to be minimal. It is possible that there will be further financial implications arising for the SSSC as a result of this Bill and the establishment of the NCS. For example, the right to breaks for unpaid carers is welcome and may lead to an expansion in the number of workers required to deliver services. The aspirations and ambitions set out in the Scottish Government's statement of benefits paper may also have additional costs.

Q13. Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?

No comment.

Q14. Does the FM accurately reflect the margins of uncertainty associated with the Bill's estimated costs and with the timescales over which they would be expected to arise?

No comment.

National Care Service principles (section 1)

Q15. Please provide your comments on the National Care Service principles

We welcome the principles as drafted, particularly the focus on fair work and the recognition of the workforce.

Accountability to Scottish Ministers

Q16. Please provide your comments on Scottish Ministers' overarching responsibilities for the National Care Service.

We support these proposals. We agree with the Independent Review of Adult Social Care's Recommendation that the NCS should report to Scottish Ministers.

Establishment and abolition of care boards

Q17. Please provide your comments on these sections of the Bill.

No comment.

Strategic planning and ethical commissioning

Q18. Please provide your comments on this part of the Bill

We welcome the continuing focus on delivering ethical commissioning and procurement of social care services which place a focus on the workforce. Funding must be included for training and development of the workforce when commissioning services.

National Care Service Charter (Sections 11 and 12)

Q19. Please provide your comments on these sections of the Bill

We welcome the development of the Charter. The Bill and the Integrated Health and Social Care Workforce Plan reinforce the critical role of the workforce, many of whom also use services. It will be critical to ensure that people who work in the sector are also involved in the development of the charter as they bring multiple perspectives.

Independent Advocacy (section 13)

Q20. Please provide your comments on these sections of the Bill

No comment.

Complaints (section 14 and 15)

Q21. Please provide your comments on these sections of the Bill

We appreciate that the complaints process can be complex. We agree that steps to streamline and improve the process are a key part of improving the quality and consistency of care. We look forward to continuing to work alongside other public bodies to improve the process. We welcome the emphasis on advocacy support, which our experience shows is too limited at present.

Minister's power to intervene (chapter 4)

Q22. Please provide your comments on these sections of the Bill

These proposals will help to address some of the challenges around poorly performing services and will lead to an overall improvement in the quality of services.

Connected functions (research, training, other activities and compulsory purchase (Chapter 5)

Q23. Please provide your comments on these sections of the Bill

Chapter five would enable Scottish Ministers and care boards to provide training courses for individuals to equip them with the knowledge and skills relevant to providing services on behalf of the NCS. The SSSC is the regulator for the social work, social care and early years workforce in Scotland. Our role includes registering social workers, social care and early years workers, setting standards for their practice, conduct, training and education and by supporting their professional development. In our response to the Scottish Government's consultation, we highlighted our concerns about some of the original proposals.

- We note that there is an expectation in equivalent UK social care regulators and in health – rightly so, in our view – that a regulator is independent and sets qualifications and standards. It is critical that social work and social care retain a similar approach.
- We highlight some of the potential disruption or consequences that could occur at a UK level.
- We have concerns about the potential to confuse or complicate this area by having multiple bodies involved in setting standards or requirements for this role.
- We would welcome the opportunity to provide further information on our position if helpful. Further information is also available in our response to the Scottish Government's consultation, including our response to questions 54,57 and Q92.

Transfer of functions, including scope of services (Chapter 6 and Schedule 3)

Q24. Please provide your comments on these sections of the Bill

We make no comment on the potential transfer of staff to the NCS. We welcome the section in the Statement of Benefit's paper which confirms that the NCS will ensure, where possible that everyone will experience Fair Work in their employment, irrespective of their employer. We believe that this aspiration should be a driving factor and that it should be broadened in recognition that there are others working in the sector such as people who are self-employed.

Inclusion of children's services and justice services (Section 30)

Q25. Please provide your comments on this section of the Bill

Our view is that the NCS should include both adults and children's social work and social care services, along with justice services. It should also consider the link with Early Learning and Childcare.

Consequential modifications / Interpretation of Part 1 (Chapter 7 and Schedule 4)

Q26. Please provide your comments on this section of the Bill

No comment.

Health and social care information (Part 2)

Q27. Please provide your comments on this section of the Bill

We strongly agree that there should be a nationally consistent, integrated and accessible electronic social care and health record, subject to full consideration of the Data Protection implications.

Right to breaks for carers (Sections 38 and 39)

Q28. Please provide your comments on this section of the Bill

We welcome the intention to establish a break from caring and it is critical that these services are personalised as far as possible. We welcome the focus on a mixed approach which includes entitlements and personalised support. We note that that approximately 3% of carers currently receive statutory support for breaks from caring. A statutory right to a break – coupled with a sustained focus on improving carers' wellbeing - is likely to lead to a significant increase in the numbers of carers accessing support. This is a positive development although we it will be critical to consider what this means for the workforce, as carers will rightly expect that breaks are delivered by highly skilled and qualified staff.

Implementation of Anne's Law (Section 40)

Q29. Please provide your comments on this section of the Bill

We make no comment on this question.

Reserved right to participate in certain contracts (Section 41)

Q30. Please provide your comments on this section of the Bill

No comment.

Regulation of social services (Sections 42 and 43)

Q31. Please provide your comments on this section of the Bill

We welcome this approach to addressing some of the challenges around poor performing services and in particular the focus on addressing some of the 'repeat offenders.' There are several factors which determine the quality of a service and the role of the workforce is crucial.

Final provisions (Part 4)

Q32. Please provide your comments on this section of the Bill

No comment.

Scottish Social Services Council

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