

You can respond to general questions on the Bill, questions about the financial memorandum and questions about specific provisions of the Bill.

Respondents are free to complete the parts of the consultation that are of interest to them. You don't need to answer all parts of the consultation, or all the questions.

### General questions

- 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?

The Royal College of Speech and Language Therapists (RCSLT) supports the intentions of this proposed bill – particularly the National Care Service principles which describe a person-centred and human rights-based approach. We also commend the embedding of inclusive communication in this bill from the outset – something we have sought to amend at later stages of many bills in recent years to ensure equality of access to people with communication needs. However, on the whole, our members feel more detail in the bill is required to judge how successful it will be in improving services.

Speech and language therapists (SLTs) work with adults across acute, primary, community and social care settings, as well as with children and young people in community and education settings. We see first-hand the current challenges of health and social care provision, and while we welcome efforts to shake up the system to drive improvement – this cannot merely be done through structural reform.

A transformational change in services is needed, with emphasis on early intervention and prevention to ensure fewer people require specialist support and care. We support putting the individual requiring care at the centre. For a preventative, person-centred, human rights approach to be achieved, we need a cultural change in how we approach care, not just in the new National Care Service but in the National Health Service as well. This will require strong leadership and understanding of how to meet local need and where resource can be found to meet that need.

Speech and Language Therapy services across Scotland very much follow the model of tailoring care around the needs of the individual, in addition to universal and targeted approaches in the community that will achieve prevention and early intervention where there are speech, language and communication needs. Giving people the tools to overcome communication or swallowing difficulties can be life changing, greatly improving mental health and preventing further medical complications down the road. However, a

major barrier faced by SLTs in the current system is a lack of knowledge of what speech and language therapy can offer, not being given access to individuals who would benefit from therapy or only being brought in when an individual is at crisis point. This is both a culture and leadership problem, that if not addressed, will persist to be a problem in the National Care Service. RCSLT, along with our colleagues in the Allied Health Professions Federation Scotland (AHPFS), continue to advocate for more AHP leadership roles to offer visibility and increased understanding in order to make person-centred decision making.

Proper investment in capacity to meet local need will also be crucial to achieving the bill's purpose. Changing structures does not change practice or guarantee increased resource – these areas need to be clearly defined for the National Care Service in this bill.

- 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?
- Are there any specific aspects of the Bill which you disagree with or that you would like to see amended?
- Is there anything additional you would like to see included in the Bill and is anything missing?
- 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?
- 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?
- 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?
- The Bill is accompanied by the following impact assessments:
  - [Equality impact assessment](#)
  - [Business and regulatory impact assessment](#)
  - [Child rights and wellbeing impact assessment](#)
  - [Data protection impact assessment](#)
  - [Fairer Scotland duty assessment](#)

- [Island communities impact assessment](#)
- Do you have any comments on the contents and conclusions of these impact assessments or about the potential impact of the Bill on specific groups or sectors?

#### Financial memorandum questions

- Did you take part in any consultation exercise preceding the Bill and, if so, did you comment on the financial assumptions made?
- If applicable, do you believe your comments on the financial assumptions have been accurately reflected in the financial memorandum (FM)?
- Did you have sufficient time to contribute to the consultation exercise?
- If the Bill has any financial implications for you or your organisation, do you believe that they have been accurately reflected in the FM? If not, please provide details.
- Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?
- 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?
- 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?

#### National Care Service principles (Section 1)

Section 1 defines the **National Care Service principles**.

In providing comments on this section of the Bill, please consider:

- Whether you agree with these principles as drafted?
- Whether there is anything in the principles you would disagree with or wish to amend?
- Whether there is anything important missing from these principles?
- Whether an alternative approach would be preferable?

We agree with the principles as drafted. We are very pleased to see inclusive communication included as one of the principles, as we believe this is essential to a human rights approach to care.

Despite the ambitious principles of the bill, RCSLT remains concerned about the gap between aspirations and delivery, especially considering the limited detail outlined in the bill as laid.

### Accountability to Scottish Ministers (Sections 2 and 3)

Sections 2 and 3 establish Scottish Ministers' overarching responsibilities for the National Care Service, namely to "promote in Scotland a care service designed to secure improvement in the wellbeing of the people of Scotland" and to monitor and improve the quality of services provided by the National Care Service. These provisions have the effect that the National Care Service will be directly accountable to Scottish Ministers.

In providing comments on these sections of the Bill, please consider:

- Whether you agree with Scottish Ministers being given these overarching responsibilities?
- Whether there is anything important missing from these sections of the Bill?
- Whether there is anything you would disagree with or there are amendments you would wish to propose to these sections of the Bill?
- Whether an alternative approach would be preferable?

We agree that Scottish Ministers should be accountable for the National Care Service. However, in order to reflect and meet the needs of the population, we believe there needs to be an inclusive decision-making structure that includes health and social care expertise from across acute and primary care, chief officers of health professions, and workforce planning, alongside social care. It is also important that agreed national outcomes are delivered flexibly to reflect the needs of the local population.

### Establishment and abolition of care boards (Sections 4 and 5 / Schedules 1 and 2)

Sections 4 and 5 make provision for the establishment and abolition of **care boards** and for financial assistance for boards. As set out in the Policy Memorandum, the Bill "makes provision for the Scottish Ministers to establish and fund these boards, called "care boards" in the Bill, to plan and deliver NCS service locally, replacing current Integration Authorities". The Policy Memorandum continues: "There is also provision for "special care boards" to deliver national functions if needed".

Connected to Section 4 and annexed to the Bill, Schedule 1 sets out detailed provisions related to the constitution and operation of care boards while Schedule 2 makes consequential amendments to public authorities legislation.

In providing comments on these sections of the Bill, please consider:

- Whether you support the establishment of care boards as set out in these sections of the Bill and provisions on financial assistance for boards?
- Whether there is anything important missing from these sections of the Bill?
- Whether there is anything you would disagree with or there are amendments you would wish to propose to these sections of the Bill?
- Whether an alternative approach would be preferable?

In reflecting the views of our AHPFS colleagues, we would require more context and information on how the care boards would be established, their size and how many there would be, before more informed feedback can be provided.

There is no mention of leadership, which is a real opportunity to establish and strengthen AHP leadership within the new care boards. To ensure equal AHP leadership to that of our medical, nursing and social work colleagues.

### Strategic planning and ethical commissioning (Chapter 2)

This Chapter of the Bill requires care boards to have a strategic plan setting out their vision, objectives and budgets for their care board area and incorporating an ethical commissioning strategy. Scottish Ministers must also have a strategic plan and an ethical commissioning strategy for any services provided at the national level.

The Policy Memorandum states that ethical commissioning strategies should set out “arrangements for providing services and how those arrangements have been designed to ensure they best reflect the NCS principles”.

In providing comments on this chapter of the Bill, please consider:

- Whether you agree with these provisions?
- Whether there is anything important missing from this chapter of the Bill?
- Whether there is anything you would disagree with or there are amendments you would wish to propose to this chapter of the Bill?
- Whether an alternative approach would be preferable?

We agree with the AHPFS response to this chapter:

AHPFS would fully support the need for strategic and ethical commissioning. However, crucial to this section of the bill will be the supporting secondary legislation determining the leadership of the commissioning process.

The allied health professions made repeated (unsuccessful) attempts for the statutory inclusion of AHP directors on IJBs. This was to ensure that the professional expertise and clinical knowledge around the delivery of community healthcare in integrated settings is included in decision making and governance. The legislation proceeded without the statutory inclusion of AHPs in leadership roles, but did not

exclude AHPs from director roles. A minority of IJBs now include AHPs in these positions.

Where allied health professions have been given sufficient input into the design and delivery of services, integration has proved to be far more successful. This is not coincidence, but a reflection of the crucial and significant professional contribution of allied health professions in community settings. It should be noted that the health professions most likely to be impacted by the creation of a new National Care Service are those most closely associated with integrated health and social care, and they must now be part of an inclusive leadership structure.

The challenge for integrated care is one of creating a 'whole systems' approach. The changes required are cultural, and the knowledge and understanding must cut across health specialities. It is the allied health professions that already embody the cultural shift toward multidisciplinary holistic models of care. The failure to ensure the statutory inclusion of AHP's on IJBs has meant that it has taken a number of years for AHP's to be recognised for their crucial contribution and included in the key decision making process around local services, which is now more apparent in some areas.

It is essential to the success of integrated care that allied health professions are included at board levels throughout health and social care to provide a unique knowledge and understanding of integrated community healthcare.

#### National Care Service Charter (Sections 11 and 12)

Sections 11 and 12 of the Bill make provision for the Scottish Ministers to prepare and publish a National Care Service charter, to be co-designed with those with lived or living experience and reviewed on a five-yearly basis.

According to the Policy Memorandum, the Charter "will set out what people can expect from the NCS and provide a clear pathway to recourse should the rights in the Charter not be met".

The first and subsequent versions of the charter must be subject to public consultation and a copy must be laid before the Scottish Parliament

In providing comments on these sections of the Bill, please consider:

- Whether you agree with provisions to create a National Care Service charter?
- Whether there is anything important missing from these provisions?
- Whether there is anything you would disagree with or there are amendments you would wish to propose to this chapter of the Bill?

- Whether an alternative approach would be preferable?

RCSLT would agree with the view to create a National Care Service charter, though very important that all aspects/sectors of public health and social care delivery, are working towards the same charter and policies. Such a charter would require to be built around the person using the care service, their family and/or carer and be created with their views being heard.

### Independent advocacy (Section 13)

Section 13 of the Bill gives Scottish Ministers powers to make provision via secondary legislation for independent advocacy services in connection with services provided by the National Care Service.

The Policy Memorandum highlights the emphasis placed by the Independent Review of Adult Social Care on the importance of access to independent advocacy and brokerage services, including peer services, “in empowering people accessing support and unpaid carers” and ensuring “that their voices are heard”.

It goes on to state the Scottish Government’s intention to “develop and implement a coherent, consolidated and consistent approach to independent advocacy services across the range of NCS services” and to do this through co-design with people with lived or living experience of accessing services.

In providing comments on this section of the Bill, please consider:

- Whether you agree with these provisions?
- Whether there is anything important missing from this section of the Bill?
- Whether there is anything you would disagree with or there are amendments you would wish to propose to this section of the Bill?
- Whether an alternative approach would be preferable?

### Complaints (Sections 14 and 15)

Sections 14 and 15 of the Bill make provision for a **complaints service** and for the handling of complaints.

The Policy Memorandum sets out the Scottish Government’s intention to “co-design to develop and strengthen the complaints system with those with lived experience”. The Scottish Government’s own consultation sought views on potential measures to underpin these complaints and redress processes, including the possible development of a model for the role of National Care Service Commissioner.

In providing comments on these sections of the Bill, please consider:

- Whether you agree with these provisions?
- Whether there is anything important missing from these sections of the Bill?

- Whether there is anything you would disagree with or there are amendments you would wish to propose to these sections of the Bill?
- Whether an alternative approach would be preferable?

#### Ministers' powers to intervene (Chapter 4)

Sections 16 to 22 of the Bill establish **powers for Ministers to intervene** with respect to care boards and contractors, for instance in case of an emergency or of service failure.

In providing comments on this chapter of the Bill, please consider:

- Whether you agree with these provisions?
- Whether there is anything important missing from this chapter of the Bill?
- Whether there is anything you would disagree with or there are amendments you would wish to propose to this chapter of the Bill?
- Whether an alternative approach would be preferable?

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

Chapter 5 of the Bill establishes certain functions connected to the provision of care, including enabling Scottish Ministers and care boards to:

- conduct, assist in conducting or give financial assistance in relation to research;
- to provide training or to provide financial support to undertake training;
- to provide financial assistance to undertake other activities connected to the services provided to individuals by the National Care Service;
- and to compulsorily purchase land required to exercise a relevant function.

**We agree with the AHPFS response:**

Research is a vital component of delivering the right care, in the right place at the right time. Data informs the development and improvement of the services AHPs deliver, and studies inform and advance practice. Support for research will always be welcomed.

Whilst the support for training provision is equally welcomed, the provision raises a number of questions for our members.

What does training in this context include? Professional development training or undergraduate training for example. Will there be duplication of training with the NCS, NHS and local authorities all providing training for staff covered by the National Care Services Bill? How will interdisciplinary training or cross agency training be

supported to take place across the NCS, NHS and local authorities? Will the training outlined in the Bill include new education pathways for the future, addressing some of the critical workforce issues affecting our members?

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

Chapter 6 confers powers on Scottish Ministers to transfer functions between institutions as part of the National Care Service. These powers include the power to transfer functions from local authorities, to bring aspects of healthcare into the National Care Service, to re-organise the National Care Service and to transfer staff, property and liabilities.

Items of **legislation conferring specific functions on a local authority** which may be transferred into the National Care Service are listed in Schedule 3, annexed to the Bill.

In providing comments on these sections of the Bill, please consider:

- Whether you agree with Scottish Ministers being given these powers?
- Whether there is anything important missing from these sections of the Bill?
- Whether there is anything you would disagree with or there are amendments you would wish to propose to these sections of the Bill?
- Whether an alternative approach would be preferable?

We have concerns about how SLT services may be transferred without local consultation. Currently, SLT services make up a variety of formations across different local authorities and health boards. Many are quite small, due to lack of budget, and SLTs from the same service cross over many areas (acute, community, social care, education). Most are NHS employees, but different posts rely on different budgets from Education, Local Government, Health and the third sector. We would find it difficult to understand how any transfer of parts of these services could be done at a national level without understanding the local arrangements that have been built up over many years.

We foresee significant professional and clinical risks in breaking up these cross-boundary SLT services to meet the new structural requirements of the NCS. While we welcome NCS principles of integration of health and social care to better meet the needs of the population and we believe SLTs have a strong role to play in a new National Care Service, it will be vital for Scottish Ministers to assess the capacity requirements, as well as any impact on professional development or clinical delivery, of any services with which they plan to utilise transfer functions.

If services are to be transferred from the NHS to the NCS, we believe that the bill needs to include specific measures to strengthen professional leadership and

cohesion across the two bodies. We believe there should be a combined workforce, education and learning plan to ensure shared best practice across professions in the same way offered within the NHS.

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

Chapter 6 also makes provision for the inclusion of **children's services and justice services** within the scope of the National Care Service at some point in the future, subject to a public consultation on the proposed inclusion of these services. It is proposed that any such inclusion of these services within the scope of the National Care Service would be achieved via secondary legislation.

In providing comments on this section of the Bill, please consider:

- Whether you agree with proposals to include children's services and justice services within the scope of the National Care Service, either now or in the future?
- Whether there is anything important missing from this section of the Bill?
- Whether there is anything you would disagree with or there are amendments you would wish to propose to this section of the Bill?
- Whether an alternative approach would be preferable?

As SLTs work regularly across children's, justice and adult services, our members feel this is a critical section of the bill that must be thoroughly assessed before action is taken. At the current time, we require further clarification from the Scottish Government on what steps are being taken to identify the impact of placing children's and justice services within the National Care Service.

In one respect, we are concerned that children's services might be overlooked by a more adult-focussed NCS. We have serious concerns that placing them within this structure would separate SLT services from our key partners in education. This would risk unravelling decades of work to embed speech and language therapy practices within educational settings, which has been a vital step in addressing the known link between spoken language, attainment and wellbeing.

On the other hand, there has long been a disconnect in the transition process for young people and their parents to adult care services which could greatly be resolved if children's services were included in the NCS. It is a similar situation with justice services.

We agree that delaying a decision on their inclusion in the NCS is the right move and hope that this time will be used by the Scottish Government to speak to the young people, parents and services involved to decide the best way forward.

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

Chapter 7 makes consequential modifications to the following legislation to reflect proposals set out in this part of the Bill (set out in Schedule 4, annexed to the Bill):

- Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947
- Local Government (Scotland) Act 1973
- Public Services Reform (Scotland) Act 2010

For the purposes of interpreting Part 1 of the Bill, Chapter 7 defines the National Care Service as comprising “care boards” and “the Scottish Ministers insofar as they are exercising a function” conferred on them by virtue of Part 1 of the Bill or an aspect of healthcare that has been “designated as a National Care Service function”.

In providing comments on this chapter of the Bill, please consider:

- Whether you agree with these provisions?
- Whether there is anything important missing from this chapter of the Bill?
- Whether there is anything you would disagree with or there are amendments you would wish to propose to this chapter of the Bill?
- Whether an alternative approach would be preferable?

#### Health and social care information (Part 2)

Part 2 of the Bill gives the Scottish Ministers powers to establish a **scheme for care records to be shared** between the proposed National Care Service and the National Health Service. It also makes provision for Scottish Ministers to produce an information standard which will set out how certain information is to be processed.

In providing comments on this part of the Bill, please consider:

- Whether you agree with these provisions?
- Whether there is anything important missing from this part of the Bill?
- Whether there is anything you would disagree with or there are amendments you would wish to propose to this part of the Bill?
- Whether an alternative approach would be preferable?

We welcome a commitment to implement a single electronic record system – this would address an ongoing barrier to effective joint working across services.

We would like clarification as to how this scheme will work – if a new universal system is being proposed for the NHS to complement a universal system for the NCS. Currently, there is still difficulty communicating within the NHS due to local development and implementation of different electronic record systems. We hope this will be addressed in creating a shared system across both the NCS and NHS. We would also like clarification on whether records would be individually owned through patient held records.

#### Right to breaks for carers (Sections 38 and 39)

Sections 36 and 37 of the Bill propose amendments to the Carers (Scotland) Act 2016 and consequent changes to the Social Care (Self-directed Support) (Scotland) Act 2013, principally with a view to establishing a **right to breaks for carers**.

In providing comments on these sections of the Bill, please consider:

- Whether you agree with the proposed amendments to the Carers (Scotland) Act 2016?
- Whether there is anything important missing from these sections of the Bill?
- Whether there is anything you would disagree with or there are amendments you would wish to propose to these sections of the Bill?
- Whether an alternative approach would be preferable?

RCSLT supports the mandatory right to breaks for carers enabling carers time to consider their own health and wellbeing.

#### Implementation of Anne's Law (Section 40)

Section 40 of the Bill proposes amendments to the Public Services Reform (Scotland) Act 2010 with a view to supporting implementation of "Anne's Law" related to visits to or by care home residents.

In providing comments on this section of the Bill, please consider:

- Whether you agree with the proposed amendments to the Public Services Reform (Scotland) Act 2010?
- Whether there is anything important missing from this section of the Bill?
- Whether there is anything you would disagree with or there are amendments you would wish to propose to this section of the Bill?
- Whether an alternative approach would be preferable?

RCSLT recognises and supports the importance of visiting rights as an essential component of health and wellbeing. These rights should be applied in all settings, including all residential and bedded environments.

#### Reserved right to participate in certain contracts (Section 41)

Section 41 of the Bill proposes amendments to the Public Contracts (Scotland) Regulations 2015 to allow the right to bid for **contracts for certain services to be reserved to certain types of organisation**.

In providing comments on this section of the Bill, please consider:

- Whether you agree with the proposed amendments to the Public Contracts (Scotland) Regulations 2015?
- Whether there is anything important missing from this section of the Bill?
- Whether there is anything you would disagree with or there are amendments you would wish to propose to this section of the Bill?
- Whether an alternative approach would be preferable?

We agree with AHPFS and would request more information on this section, and assume that the intention of this section is to protect the integrity of the National Health Service, avoiding the awarding of contracts for any lucrative elements of its service. Ultimately, a whole systems approach requires whole systems planning, and preserving the integrity of the NHS remains important.

#### Regulation of social services (Sections 42 and 43)

Sections 42 and 43 of the Bill propose amendments to the Public Services Reform (Scotland) 2010 Act to stipulate additional circumstances in which **registration of a care service may be cancelled** and to authorise Healthcare Improvement Scotland to assist the Care Inspectorate in carrying out **investigations of care services**.

In providing comments on these sections of the Bill, please consider:

- Whether you agree with the proposed amendments to the Public Services Reform (Scotland) Act 2010?
- Whether there is anything important missing from these sections of the Bill?
- Whether there is anything you would disagree with or there are amendments you would wish to propose to these sections of the Bill?
- Whether an alternative approach would be preferable?

We agree with the AHPFS response:

AHPFS would agree with the proposed amendments to the Public Services Reform (Scotland) Act. As this aims to improve the quality of regulated services and brings more protection and safety to people and staff, who use and work within regulated services. It also aligns the Care Inspectorate and Health Improvement Scotland, in respect to their statutory functions.

#### Final provisions (Part 4)

As well as defining what is meant by “health board” and “special health board” for the purposes of interpreting the contents of the Bill, setting out ancillary provisions, defining the date of commencement of the legislation and setting out its short title,

Part 4 of the Bill sets out **regulation-making powers** to be conferred on Scottish Ministers via secondary legislation.

In providing comments on this part of the Bill, please consider:

- Whether you agree with regulation-making powers conferred on Scottish Ministers by section 46 of the Bill?
- Whether there is anything important missing from this part of the Bill?
- Whether there is anything you would disagree with or there are amendments you would wish to propose to this part of the Bill?
- Whether an alternative approach would be preferable?