

EAST RENFREWSHIRE COUNCIL26 October 2022Report by Chief ExecutiveNational Care Service Bill: Scottish Parliament Consultation Response**PURPOSE OF REPORT**

1. The purpose of this report is to homologate the Council's response to the Scottish Parliament's Health, Social Care and Sport Committee's consultation on the National Care Service (Scotland) Bill.

**RECOMMENDATIONS**

2. It is recommended that Council homologate the response submitted on behalf of the Council, attached in annex 1.

**BACKGROUND**

3. The Scottish Government introduced the National Care Service (Scotland) Bill on 20 June 2022. The Bill was passed to the Scottish Parliament's Health, Social Care and Sport Committee, whose consultation began on 8 July 2022 and closed on 2 September 2022. East Renfrewshire Council agreed an extension with the Committee until 9 September 2022 to allow time to complete Elected Members engagement. The consultation window was extremely tight for Councils to respond within, as elections had just taken place in May and the majority of the consultation took place over the summer period.

**REPORT**

4. The National Care Service (Scotland) Bill is an enabling piece of legislation that will allow Scottish Ministers to bring forward various components required to establish a National Care Service in phases. The Council's response sets out its opposition to this approach; it highlights the success of East Renfrewshire's current integration arrangements (including the recent inspection rating of Excellent), and our concerns around the National Care Service, as proposed, eroding local democratic accountability. The response also makes it clear that the fundamental challenges we face are not structural in nature but rooted in underfunding for public services and social care as a whole.

**FINANCE AND EFFICIENCY**

5. There are no finance or efficiency implications arising as result of this consultation response submission.

## **CONSULTATION & PARTNERSHIP WORKING**

6. Elected members were given the opportunity to comment and shape the response prior to submission. Groups leaders and Cllr Macdonald were provided with a draft of the response and each discussed it with the Strategic Insight and Communities Senior Manager prior to submission. Group Leaders also shared copies with their members and advised them to engage with the Strategic Insight and Communities Senior Manager if they had any concerns or comments.

## **IMPLICATIONS OF THE PROPOSALS**

7. There are no specific implications of this report in terms of finance, staffing, property, legal, ICT, equalities or sustainability.

## **RECOMMENDATIONS**

8. It is recommended that Council homologate the response submitted on behalf of the Council, attached in annex 1.

## **REPORT AUTHORS**

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## **BACKGROUND PAPERS**

- [National Care Service - Proposed Consultation Response, Council 27 October 2021](#)

**Overview**

*East Renfrewshire Council supports the submissions made by COSLA, SOLACE, and CIPFA Directors of Finance which provide a comprehensive consideration and response to the detailed implications of the Bill.*

*This response is intended to build on, rather than duplicate, those detailed responses by highlighting the particularly high-level considerations of the Bill from an East Renfrewshire Council perspective.*

- 1. 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?**

East Renfrewshire Council does not believe that the Bill, as introduced, will be successful in achieving the Scottish Government's stated aims. The reasons for this are threefold:

- i. Structural change is a distraction not a solution – the Bill doesn't address the systemic challenges facing social work and social care services, but it might make them worse.**

The Scottish Government's stated aims for the National Care Service (timely, consistent, equitable and fair, high-quality services) are not addressed by the proposed structural change. The core challenges facing the social work and social care sector are systemic ones (sustainable funding, staff recruitment and retention and consistent national standards) that will not only persist but worsen if not addressed, independent of any organisational configuration. East Renfrewshire Council believes the money being channelled towards implementing structural change would be better invested in local services in ways that will support the delivery of the Scottish Government's outcomes without unnecessary complex structural change.

- ii. Structural change causes disruption, is likely to set us back, unwind excellent partnership service provision, reduce local flexibility and lower the quality-of-service where it is already high.**

As proposed, the Bill will undermine established service provision in areas where integration is deeply embedded and delivering high quality services by:

- undermining established partnership working as a national focus overtakes local needs;
- weakening local leadership and control as power is centralised;
- drawing change resource away from improvement towards structural implementation.

The Bill doesn't address the risks of centralisation itself. The structural change seems to pre-empt any strategic approach. East Renfrewshire recently received the first rating of Excellent in a joint inspection of services for children and young people at risk of harm. East Renfrewshire has spent years building a locally-led multi-agency approach and

remains very concerned that the Bill could undermine years of leadership, hard work and commitment that has led to excellent local service provision.

**iii. The Bill takes a top-down national view, undermines local democracy and avoids any commitment to meaningful local community boundaries.**

The Bill fails to sufficiently value or understand localism. It fails to address Christie’s focus on prevention and partnerships; and runs counter to the European Charter of Local Self-Government, which holds that “Public responsibilities shall generally be exercised, in preference, by those authorities which are closest to the citizen”, which received unanimous support in the Scottish Parliament in 2021.

Social care operates in a complex system that has deep rooted dependencies in wider local services including housing, education and community services that impact the preventative and reactive service provision in localities.

The Bill fails to recognise the importance of local democratic accountability and how important it is that local people shape the services they receive. A small but key example of this is how East Renfrewshire’s Champion’s Board (care experienced young people) have been directly able to influence and shape local service provision by direct access to senior local decision makers in the Council and HSCP. Such responsive local flexibility and control would not be possible under a centralised National Care Service, potentially operating at a regional level.

**2. 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?**

**A National Care Service should complement, not disrupt, high quality local service delivery. Instead of focussing on structures and centralisation the Scottish Government should learn from what is working well, set standards and apply proven solutions to the challenges facing the sector - only stepping into to take control when the local partnership is at high risk of being unable to deliver.**

East Renfrewshire has been at the forefront of integration in Scotland. We have had an effective and fully integrated HSCP since 2014 and an integrated Community Health & Care Partnership (CHCP) prior to that. Our HSCP has consistently delivered excellent services to our communities as a result of strong local elected and operational leadership, an evidence-based approach to understanding local needs, priorities and delivering outcomes, through deeply embedded partnership working across services and with communities.

We believe that the Scottish Government should take an outcome-focussed, whole-systems view, investing in public services, as a whole, rather than picking and choosing elements to “ringfence”.

The Scottish Government should identify where integration has worked well and look to apply these lessons through national frameworks and standards through a risk-based approach. The Council believes that achieving the best health and social care outcomes requires:

- local leadership and democratic accountability, empowerment and flexibility underpinned by coherent national policy, delivery, finance, improvement, and scrutiny frameworks;

- an effective and collaborative multi-sector, locally-led partnership united by a clear strategic vision and ambition based on local needs and circumstances;
- a relentless focus on improving outcomes, standards, and client pathways;
- a workforce and volunteers who are well-trained, supported and feel valued; and
- a realistic and sustainable funding model.

East Renfrewshire believes that localism should be a core principle that informs the design of any new arrangements and priority focus should be given to:

- improving outcomes;
- improving client pathways;
- never losing sight of how any changes impact the cared for and their carers;
- avoiding unnecessary institutional changes that divert attention away from clients and service improvement;
- embedding and funding prevention and local capacity building in the sector to meet needs and support co-production; and
- ensuring procurement, standards and scrutiny arrangements are proportionate and effective by building on good practice and what has been shown to work successfully.

A National Care Service could provide national leadership on matters such as workforce planning, training, terms and conditions, national standards, ethical procurement, registration, inspection and improvement. This could include a national focus on securing a Real Living Wage for all care workers; developing minimum standards; working to remove charging for non-residential care services; designing new criteria for an entitlements-based model of care; improving the voice of lived experience in care services; and improving the support to unpaid carers. These areas of improvement will progress faster and with more impact if properly resourced and without the distraction of an unnecessary structural change.

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

As stated above East Renfrewshire Council fundamentally disagrees with the centralising and structural focus of the Bill. We believe that the Scottish Government should take an outcome-focussed, whole-systems view as we have outlined.

**East Renfrewshire Council believes the Bill should be amended in such a way that decision-making, staff, functions and assets in relation to the delivery of care should remain with local authorities.**

**The Council believes that the geography of any new Community Health and Social Care Boards should not be permitted to cover more than one Local Authority/Community Planning Partnership area and the roles of local elected members should be explicitly enshrined in the Bill.**

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

As outlined above East Renfrewshire Council would like to see:

- i. Protection of local democratic accountability and leadership enshrined in the Bill;
- ii. Commitment to the current local government/community planning partnership boundaries being the largest geographic boundaries for Community Care and Health Boards.
- iii. A clear strategic, outcome focussed, framework that meaningfully addresses the challenges facing the sector.

5. 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?

East Renfrewshire Council believes the more radical the democratic and legislative change proposed, the greater the scrutiny of it needs to be. This is particularly true when this involves undermining local democratic control.

**This Bill proposes one of the most radical shifts in power away from local democracy and control in living memory. Yet the Bill fails to provide even the most basic details and proposes utilising a delivery mechanism that avoids full parliamentary scrutiny and debate.**

East Renfrewshire Council has major concerns about the legislative approach to establishing a National Care Service via the Bill. The Bill, as introduced, confers significant powers on Scottish Ministers and, we believe, weakens parliamentary scrutiny and accountability. It potentially prevents the Scottish Parliament seeing the “whole picture” until after several major pieces have been introduced and in place in a piecemeal way.

The Bill proposes one of the most radical shifts in power away from local democracy and control. As such, the Council believe that if the Scottish Government is proposing such a radical and unprecedented step it’s proposals must be laid out in full, in an explicit, coherent and fully transparent basis. We feel the case for such an unprecedented transfer of power from local people to ministers has not been made and must be subject to the highest standards of parliamentary scrutiny, public debate and challenge. While the Bill has a commitment to co-production via the Scottish approach to Service Design, this has a focus on clients but does not cover engagement and co-design with local authorities.

Given the importance of and risks related to the services to vulnerable people involved, the Bill should be fully “stress tested” to ensure that it is evidence based, capable of addressing the challenges facing the social work and social care sector and keeps people safe.

The timescale given for the consideration of the proposals in the consultation was too short given the scale of the proposed changes. This would have been true in normal times but was especially pertinent given the ongoing challenges faced across health and social care services in recovering after the pandemic. The tight time period allotted for the whole consultation process it did not

take account of local elections, did not provide sufficient time to consider in full the implications for social work/care service users, carers, staff, provider organisations and the Council as a whole.

- 6. 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?**

**Social work and social care outcomes are intertwined with, and interdependent on, a wide range of local services and circumstances. To protect local democratic accountability and a flexible, needs-led, outcomes-based approach local authority control should be retained.**

As previously stated, removing the statutory responsibility for services from Local Government would undermine a joined-up approach across other essential local services that impact on a person's health and wellbeing. The services proposed as being potentially included in the National Care Service have wider linkages with areas such as housing, employability, education, public safety and protection.

There is no evidence outlined within the pre-legislative consultation, the Bill, nor accompanying documents, as to how or why the transfer of accountability and power to Ministers would result in improved quality of support and better outcomes for people.

By changing public protection structures without any apparent strong evidence base that has been rigorously consulted on and reviewed, this Bill is introducing significant risks to our current excellent public protection arrangements. If the plans are taken forward without due consideration and caution, there is a risk that we will be putting our most vulnerable children and adults at further risk of harm. Consideration needs to be given to maintaining service delivery and public safeguarding during this extended period of uncertainty. Furthermore, as this Bill progresses there is not only the question whether services are likely to be more consistent but whether people are more likely to be safer.

Should statutory responsibility for services be removed from local authorities, it is possible that East Renfrewshire may not wish to remain as a provider, only to be commissioned by local care boards. In a scenario where councils no longer retain care staff or functions, there is a need to clarify and identify who takes on the responsibility of being provider of last resort.

- 7. 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?**

**Structural change is very expensive and public finances are already extremely stretched. The financial commitments in the Bill and Policy Memorandum do not match the stated ambitions or current fiscal reality.**

The Bill, as introduced, has the potential to fundamentally undermine local authorities already overstretched finances. The Bill has significant implications as outlined across our submission, but

which are extremely difficult to quantify and unpack in detail due to the lack of detail in the Bill and the way in which the National Care Service is proposed to be established.

On the face of it, the Bill and its financial memorandum fail to offer the investment needed to help make improvements and ease pressure on staff, services and improve the experience of service users. A detailed breakdown of local authorities, including East Renfrewshire's, financial concerns are set out in COSLA and CIPFA Directors of Finance submissions to the committee.