

EAST RENFREWSHIRE COUNCIL

27 October 2021

Report by Chief Executive

National Care Service - Proposed Consultation Response

PURPOSE OF REPORT

1. The purpose of this report is to seek Council approval for the proposed response to the Scottish Government's consultation on creation of a new national care service.

RECOMMENDATION

2. Council is asked to:
- a) Note that the response has been drafted in line with an Elected Members session on 23 September and discussion within a cross-party working group of Councillor Buchanan, Councillor Lafferty and Councillor Wallace on Monday 18 October; and
 - b) Approve the response for submission to the Scottish Government by the deadline of 2 November.

BACKGROUND AND REPORT

3. On 8 September 2021 Council noted the consultation on a national care service and that the formation of one is likely to have significant implications for all councils.
4. Council noted the Scottish Government's extension of the deadline for responses from 18 October 2021 to 2 November 2021 and agreed to an Elected Member and Officer discussion on 23 September to explore the detail and provide initial comments.
5. A cross-party working group was convened on 18 October to discuss the Council's draft response to the consultation, a copy of which is attached..

REPORT AUTHOR

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PREVIOUS PAPER & RELEVANT LINK

- Full Council paper 'National Care Service Consultation' (Agenda Item 12)
8 September 2021
https://eastrenfrewshire.gov.uk/media/5933/Council-papers-08-September-2021/pdf/Council_papers_-_08_September_2021.pdf?m=637662558858330000
- Scottish Government National Care Service consultation document
<https://www.gov.scot/publications/national-care-service-scotland-consultation/documents/>

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Appendix

National Care Service for Scotland – Consultation

Proposal: To create a comprehensive community health and social care service that supports people of all ages

Summary Position

East Renfrewshire Council is committed to delivering the best possible outcomes for all its residents and communities. 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 is always open to change and improvement. We believe that local leadership, clarity of purpose and control are the most powerful drivers of sustainable positive change. We believe that localism should be a core principle that informs the design of any new arrangements. The Council believes any change to health and social care should give priority focus to:

- improving outcomes;
- improving the 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; and
- ensuring procurement, standards and scrutiny arrangements are proportionate and effective by building on good practice and what has been shown to work successfully.

We welcome the stated commitment to taking a person-centred, human rights-based approach to care services, where care is seen as an investment in society, not a burden and is underpinned by ethical commissioning alongside a fair and consistent charging framework. However, there are three key caveats:

1. There is nothing inherent to a nationally centralised governance model that will improve local outcomes in and of itself. Indeed, the Council believes that there is a risk that a national approach may result in “levelling down” in areas such as East Renfrewshire rather than “levelling up” areas where there has not been the same successful integration, leadership, partnership working and ability to deliver positive outcomes.
2. The Council very much welcomes the commitment to increase funding for social care. The Council recognises the proposed increased investment of 25% and this will certainly go some way to addressing the current and future financial challenges faced by the HSCP with service delivery. However it is important to note that significant structural change will cost time and money and consume a great deal of senior

leadership and management time. Increasing funding to Councils and HSCPs for social care will improve the situation more quickly and effectively. Mandating fully-integrated HSCPs within each community planning partnership alongside increased investment would appear to be a more rapid, effective and efficient way of delivering positive change in the system.

3. Ethical procurement is welcome; however, the consultation fails to recognise the effective leadership of local government already through Scotland Excel's work to date. Any new arrangements should recognise and build on that work, using the insight and experience that already exist.

Partnerships

The provision of services within the health and social care remit is not done in isolation. It touches a broad gamut of services including: education; housing; justice; and employability which involves complex partnership working, relationships and interdependencies across multiple public, private and third sector bodies.

The Council believes social care is an area which cannot be centralised into simplicity.

Building on success

The Feeley report stated:

"We heard and saw compelling evidence of where current integrated arrangements were working well under Integration Joint Boards and their delivery arm, Health and Social Care Partnerships. This was especially the case where all social care, social work and community-based healthcare was delegated to its greatest extent" ('Adult social care: independent review', Derek Feeley, Former Scottish Government Director General for Health and Social Care and Chief Executive of NHS Scotland, February 2021)

East Renfrewshire has had an effective and fully-integrated HSCP since 2014 and an integrated Community Health & Care Partnership (CHCP) prior to that.

The Council supports the proposals to retain local government boundaries in the proposed new arrangements. However, the Council does not believe that dismantling successful, locally-led integrated HSCPs is the answer to improving provision across the country. The Council would recommend mandating locally-led fully-integrated HSCPs before creating a national body that undermines local democratic control, as locally-led fully-integrated HSCPs have been shown to be the most effective delivery model.

Conclusion

There are established local arrangements which we believe are fundamental to the successful delivery of services and outcome improvement. We support the principle of a fully-integrated services model but with two key caveats: local authority control is maintained and the existing Community Justice arrangements are retained.

It is not clear how the proposed governance arrangements would improve outcomes. Instead, we believe a strong national framework with local flexibility is the best approach and that funding for local authorities to improve and deliver services, within set national parameters, is increased rather than removed.

There is a number of workforce related considerations which have not been unpacked in the consultation document and provide some concern. The current proposals would require significant institutional change, diverting attention away from local care needs and bringing disruption to services for some of the most vulnerable people in our communities.

Themes

1. Core Ambitions, Objectives and Principles

East Renfrewshire Council supports the Scottish Government's stated ambitions of:

- Tangible improvements to outcomes for people in social care of all ages
- A person-centred, human rights-based approach to care services
- Care seen as an investment in society not a burden
- Ethical commissioning, fair and consistent care charges

We support the proposed shift in paradigm around how we think about social care as shown in the Scottish Government's diagram below:

Old Thinking	New Thinking
Social care support is a burden on society	Social care support is an investment
Managing need	Enabling rights and capabilities
Available in a crisis	Preventative and anticipatory
Competition and markets	Collaboration
Transactions	Relationships
A place for services (e.g. a care home)	A vehicle for supporting independent living
Variable	Consistent and fair

We agree that the Independent Review of Adult Social Care (IRASC) highlights important national social care concerns and offers some effective proposals, such as embedding human rights, introducing additional funding, putting service users' health and wellbeing at the core, but do not agree with the National Care Service governmental structure as is currently proposed in the consultation. We believe that the standards of care parameters should be set nationally but feel that services should be delivered at a local level because local authorities know their areas' needs and requirements best. There are established local partnerships and relationships which are fundamental to the successful delivery of services. We would like to see the findings of the review used to improve our services and deliver the best outcomes for our residents but through a local approach within a national context with additional funding in place.

The focus of the work of the Local Governance Review to date has been localism – ensuring that decisions affecting individuals and communities are taken at the closest level to those affected and that resources are targeted in flexible and effective ways, working in partnership with other local organisations, to meet the needs of local people. The proposals outlined in this consultation, however, would contradict this with responsibility and decision making becoming centralised.

It is critical to recognise the importance of the role of local choice, local governance and accountability, and local discretion in a democratic society. Moving legal accountabilities and decision making away from local communities would be premature and ultimately damaging. The need for local integration, local knowledge and relationships all point to the retention of these services within local authority control.

2. Establishment and Scope of the National Care Service (NCS)

The consultation proposes the introduction of a fully-integrated National Care Service delivered through Community Health and Social Care Boards (CHSCBs) with the full integration of Healthcare; Children's Services; Social Work and Social Care; Nursing; Justice Social Work; Prisons; Alcohol and Drug Services; and Mental Health Services.

East Renfrewshire Council supports the principle of a fully-integrated services model with two key caveats: local authority control should be maintained and the existing Community Justice arrangements, which have been subject to multiple changes over the last decade and where the most recent changes are still being bedded in, should be retained.

East Renfrewshire has had an integrated health and care partnership since around 2006, when a Community Health and Care Partnership was created, rather than a CHP. Our CHCP Committee had a very similar composition to the IJB which was established in 2014. East Renfrewshire's current model is an example of exactly the type of successful, devolved IJB that the IRASC refers to. East Renfrewshire's IJB has always had and continues to benefit from strong cross-party local democratic leadership from Elected Members, a longstanding partnership between the Council and Greater Glasgow & Clyde Health Board, excellent relationships with third and private sector partners and community representatives. The Health and Social Care Partnership – the delivery body for the IJB, has a vibrant and distinct organisational culture and identity that straddles the Council, NHS and CPP; and a diverse and multidisciplinary staff who work together with all their partners to deliver the best outcomes.

We believe that HSCP services should be locally-led because local authorities are best placed to identify the specific needs of people and communities in their area and to ensure that workforces have the knowledge, skills and resources to respond to these needs.

Whilst we welcome the consultation's focus on the carer and service user voice, the voice of the experienced professional should also be considered - in particular, the experience and insights of those fully-integrated HSCPs.

3. Governance

In the proposed NCS, Scottish Ministers would be responsible for the delivery of social care support. There would be reformed Integration Joint Boards: Community Health and Social Boards, who would be accountable to Scottish Ministers. The implementation of this governance structure would have a significant impact on the Council's remits, legal obligations and governance arrangements anticipated – with there being a lack of clarity on the operational element in the consultation.

As already mentioned, a key focus of the Local Governance Review has been localism and we have aimed to ensure that decisions affecting individuals and communities are taken at the closest level to those affected. The proposals outlined in this consultation contradict this with responsibility and decision making becoming centralised.

We are supportive of change that focusses on improving services and outcomes for our residents. While this is mentioned as the core ambition of the consultation it is not followed through within the proposals. It is not clear how the proposed governance arrangements would improve outcomes where there are already strong local integration structures in place. Instead, we believe a strong national framework with local flexibility is the best approach moving forward.

The consultation proposes a commitment to increase investment in social care by 25%, however it does not offer clear proposals on the financial implications of the NCS. There are significant financial risks for the Council that risk undermining other essential local public services arising from:

- Commissioned services – competition
- Diseconomies of scale on remaining services, particularly back office
- Funding allocations for remaining local authority services
- Fairness in budget/accounting disaggregation

The capital investment approach is also unclear. The IRASC report gave options to pay for investment and the consultation document provides no information on modelling of volume or costs of demand for the various options presented nor indicates how the additional investment will be funded on a recurring basis.

It is not clear if any assessment of the loss of social work and a social care budget contribution to central administration service costs within the local authority budget has been carried out. Approximately 30% of corporate overhead will be recharged to social work and we would question how this will be compensated.

The consultation offers no detail in relation to other governance and financial considerations:

- A medium to longer term financial strategy to ensure that the required budgetary provision maintains pace with demand for the new service offers, also identified by SOLACE in earlier discussions.
- The relationship with the local government grant settlement – noting that social care is not fully funded through the settlement indicators and that local authorities, reflecting local prioritisation decisions, have taken spend decisions to subsidise this area of service. There is no reference to modelling the scale of this subsidy or clarity on how the subsidy is incorporated into the financial modelling for the overall proposals.
- The balance between local and national commissioning and what 'overseeing' local commissioning would mean in practice. Too much focus on national commissioning would impact negatively on local flexibility in procuring services with impacts on local

employability and third sector local provision. This undermines one of the key levers available to local authorities to influence and support local economies through targeted procurement spend.

- Interaction with the standardised Model Complaints Handling Procedure operated by all local authorities/HSCPs with escalation to the Scottish Public Services Ombudsman.
- Equality, socioeconomic and environmental impact assessments of the current proposals. As such there is little reference to the delivery of services to communities with different needs – including different ethnic or religious groups; gypsy/traveller communities; patients, service users and carers identifying with other protected characteristics; and people with intersectional identities with compounding experiences of inequality.
- Local, regional and national resilience arrangements. In the event of civil emergencies, generally the central presence is the local authority to support the immediate response and to lead on the recovery phases which very often includes the care for people services. Reducing the capacity of local government exposes civil contingencies arrangements to new and significant risks.
- The purchase or lease of local authority assets used for the delivery of services by an NCS. This extends to buildings; fleet; ICT; equipment; and other assets, or recognition that local authorities will have debt that needs to be serviced in respect of those assets.
- Specific statutory roles such as the Chief Social Work Officer and how the transfer of accountabilities will impact on the critical professional leadership, independent challenge and assurance of this function.

We believe that funding should not be taken away from local authorities to deliver local services. If the additional funding planned for the NCS was given to local authorities, then they would be best placed to improve and deliver services locally – within set national parameters – rather than through a standardised national system. We believe that the current system and its limitations have been created through the underfunding of the sector over decades which has led to application of increasingly stricter needs assessments used to ration access to care to meet with available resources.

While the Council welcomes the Scottish Government's commitment to increase investment in social care, supported by investment in early intervention/prevention, it is important that these funds are not diverted or lost to transition costs such as IT systems, procurement, budget/accounting disaggregation instead of being focussed on building on current successes to deliver the most efficient and effective changes to front line services and service users.

4. Workforce

The Council understands and supports many of the workforce proposals put forward in the consultation, such as the establishment of a National Social Work Agency. There is universal support for these proposals across the Council as we value people who work in health, social work and social care and recognise the important contribution these workers make. We also support the implementation of nationalised Fair Work practices, rights to breaks from caring, workforce planning and training and development for Personal Assistants.

The Council firmly supports the Fair Work commitment and Local Government is considered to be a Fair Work employer. The Council sees accreditation for Fair Work as a positive move however it should be recognised that this is unlikely to improve terms and conditions across the board unless this is enforceable with some form of monitoring. There would need to be a requirement for providers to have minimum terms and conditions in place before being able to access contracts/work for this to have an impact. It should also be recognised that the terms and conditions for social care in councils is higher than the minimum standards referenced in the consultation.

In principle, we do not object to a national pay framework for social care staff, however it should not undermine the national joint committees responsible for agreeing pay which currently exist within local authorities and it should not introduce the risk of equal pay challenges by treating groups differently as this could have significant financial and workforce implications.

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

We also note several implications for the Council and current council staff below.

The consultation puts forward that CHSCBs will be accountable to Scottish Ministers, however most staffing arrangements remain unclear:

- The application of TUPE is not explained and it would be useful to have clarity and assurance on what is actually proposed. Moreover the consultation document is unclear on which parts of the workforce would be covered by TUPE and would transfer in to the CHSCBs. It seems to imply this would be the case for Chief Officers and Strategic Planning staff, with the front-line social care workforce remaining employed by their current employer. If this is the case it would mean local government as the employer would assume all of the employment risks but would have limited ability to provide direction on what is needed locally. We would also query how staff can remain local authority staff if they are directly funded and are accountable to Ministers.
- Clarity is required on the role of the proposed Community Health & Social Care Boards in the commissioning of services. Through the current partnerships, the HSCPs work with local government to deliver services through the local government (and health) workforce. The consultation appears to suggest that the Boards will 'commission' this work in the future, and the assumption would be that local government will be required to 'bid' for work. This would be very unsettling for the local government workforce.
- Clarity is required on which support roles are envisaged to be in both the Community Health & Social Care Boards as well as within the National Care Service as a whole. Is it possible that local government posts which currently support the HSCPs such as

Finance, HR, IT etc. will no longer support the delivery of social care, and such functions will be delivered either through the Boards or the National Care Service? If this is the case, consideration needs to be given to the impact on jobs and individuals employed within these roles within local government.

- There are concerns around potential harmonising of Terms & Conditions of Service, Contracts and Pensions. It is unclear if there are plans for transfers from the NHS and councils into a new organisation. It is likely that there will be a cost to both carry out and support this work and it is unclear how this will be funded.
- There are issues regarding the national job evaluation framework. If the function is uprated in comparison to other local government roles then a full review of all local government grades is required due to equal value/pay comparisons. This will require significant funding and will take a significant amount of time to complete.
- From the information provided, the establishment of a national forum with workforce representation would not be supported. A Forum for the purposes suggested would be difficult to manage given the wide range of stakeholders and providers, and the context within which they work. It would be difficult to ensure fair representation across all employers and this would duplicate the work already undertaken within existing forums which deal with matters such as terms and conditions and collective bargaining for the employers.
- There is a need to ensure there is no duplication between the work undertaken by the National Social Work Agency and what employers currently do in relation to their workforce, including those areas that employers are legally required to do. There also requires to be an assessment of the work currently undertaken by the numerous other social work linked bodies. A National Social Work Agency, whatever its remit and purpose, will bring additional costs into the social work system. The remit and purpose must therefore be clear, including the ways in which it will add value for our communities as well as the workforce.

The consultation puts forward proposals around workforce planning, practice and standards however there are additional points we wish to highlight:

- It is difficult to see how a workforce plan dedicated to social workers alone would add value to our communities. If this were done locally, it can instead be linked to the wider context of all care services, as well as linkages to other services such as education and housing, understanding of local workforce, local demographics, employability issues, available talent pool, links with employability services and colleges, local turnover levels and likely movement across council services. It is recognised however, that the information from local workforce plans may be of assistance in ensuring appropriate ongoing availability of university courses to ensure there is sufficient social work capacity in the medium to long term.
- Benefits could come from more publicity and visibility on social care and the value of the profession, with the focus on social care as a career, with appropriate career progression. Any training and development could be linked to this to ensure open access to courses which support good career pathways.
- Support for the work on national standards and best practice would be helpful. Promotion of social work as a career, including communications, PR, educational events, support for modern apprenticeship programmes etc. would also be of assistance.
- There are concerns over enhanced powers for regulating care workers and professional standards. It would be helpful to better understand what this proposed change is aiming to achieve. Codes of Practice already exist through the Scottish Social Services Council (SSSC). These could, as an alternative, depending on the

purpose of this suggestion, be strengthened without creating new regulations. 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.

Overall, the scale of the changes being proposed may bring significant disruption to the delivery of services for some of the most vulnerable in our communities. It would be helpful to know what consideration has been given and what support would be provided over any period of change to help manage the delivery of services, mitigate adverse impact and indeed add value for our communities.

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5. Scrutiny and Regulation

The consultation proposes to review the role of the Care Inspectorate and Scottish Social Services Council, with the Care Inspectorate proposed to have a Care Home market oversight role.

The Council shares a similar view to SOLACE who support the principles of the scrutiny and regulation elements of the proposal and that these should be part of the overarching governance of risk. The consequences for a provider going into administration or taking a decision to withdraw from the market can be as significant as the maintenance of poor care standards and requires the same level of consideration. Often the two issues go hand in hand and each can act as a signal of the other.

It would be appropriate for the market oversight function to be exercised through collaboration with partners and stakeholders who can provide appropriate local knowledge and expertise, such as local authorities and Scotland Excel. This collaboration would extend to market research and analysis as well as local monitoring and intelligence.

The oversight at a national level can also help share insight and intelligence of chain operators where similar issues are arising within the company and again can act as a signal to prompt consideration at other registered sites. Single site inspections may not provide that overview or support early intervention.

We take the view that the role of providing guidance and documentation to support local commissioning should be undertaken by an organisation with direct skills and experience in undertaking social care commissioning and procurement. Scotland Excel has extensive experience in undertaking market research and analysis at the national level, meaning they are uniquely positioned to build upon this experience and continue to work collaboratively with partners to identify appropriate standards and processes which help drive improvements and support local decision making.