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Convener Health, Social Care and Sport Committee  
The Scottish Parliament  
Edinburgh  
EH99 1SP

6 December 2022  
Our Ref: KM/GW/061222

Sent by email

Dear Ms Martin

**Health, Social Care and Sport Committee: National Care Service (Scotland) Bill  
Evidence - Response to witness follow-up letter**

Thank you for the opportunity to give evidence to the Health, Social Care and Sport Committee on Tuesday, 22 November as part of the Committee's Stage 1 scrutiny of the National Care Service (Scotland) Bill and for your subsequent correspondence.

I have outlined below the Care Inspectorate's responses to the additional questions that you have raised in your letter. I also attach as appendices our previous responses to the Scottish Government consultation on the National Care Service and your committee's call for evidence on the Bill.

I would like to reiterate that the Care Inspectorate does not oppose - and has not opposed - the creation of a National Social Work Agency. In our submissions (please see below for the relevant sections) we have consistently noted that we see the potential benefits of the creation of such an agency and our hope that this will build upon – and not duplicate – the work currently undertaken by a number of different agencies and public bodies.

I hope this is helpful in your consideration of the evidence. Please do not hesitate to contact me if I can be of further assistance.

Demographic information relating to recruitment and retention in the social care and social work workforces

We would direct the Committee to [workforce data](#) published by the Scottish Social Services Council (SSSC), including the stability index. For the year to 31 December 2021, across the whole of the social services workforce (including regulated care services and social work services) the stability index was 75.5%, meaning that 75.5% of the workforce remained in the same post as the previous year. This represents a drop in stability by over 5 percentage points from 80.8% the previous year, the lowest level since SSSC started reporting (at 31 Dec 2016).

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Our recent [Staff vacancies in care services 2021 report](#), published with the SSSC, highlighted:

- 47% of services reported having staff vacancies, up by 11 percentage points in the last year, and considerably higher than the reported 11% of all establishments in Scotland reporting vacancies in the Scottish Government's Employer Skills Survey 2020.
- Of the services reporting vacancies, 58% reported problems filling them, up 15 percentage points on the previous year.
- Services reported a WTE vacancy rate of 8.1%, up from 5.1% the previous year and considerably higher than the 1.9% rate for all establishments reported in the SG Employer Skills Survey 2020.

There is no published data on the age at which staff leave the workforce. [Data published](#) by SSSC does show that the number and proportion of people aged 55 and over has increased over the 14 years of data available:

- Across the whole of the social services workforce, the number of workers in the 55-64 and 65+ age groups had increased by 50% and 113% respectively between 2008 and 2021. Those aged 25-34 also increased by 17%, with all other age groups reducing in number over the period.
- In 2008, those aged 55 and over made up 16.6% of the workforce, increasing to 23.8% by Dec 2021.

### National Social Work Agency

As stated in our response to the Scottish Government consultation on a National Care Service, we welcomed recognition of the "unique task of social work, which is very closely allied, but not synonymous, with social care".

In our consultation response, we added:

"It is hoped that understanding of the significant role played by social workers and the value which should be accorded to social work, would be enhanced by the creation of a National Social Work Agency, in the new National Care Service itself, as well as in Scottish Government and with the wider public."

"We would expect social work and social care to be valued and represented at all levels of the National Care Service, with the National Social Work Agency being in addition to, not instead of, this representation and able to consolidate and progress the work that a number of other agencies have been doing to date."

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We also highlighted in our response that there is currently no single body with the authority to oversee and support the capacity and development of the social services workforce.

We said: “Nonetheless there is recognition that the functions planned for the new National Social Work Agency to assume are currently undertaken by a number of different organisations and public bodies. The Care Inspectorate would highlight the valuable work done over many years by these bodies, and would hope that the creation of a national agency would seek to incorporate and build on the work done. For example, we would be keen to see the SSSC maintaining its role around standards of education and training.”

“The Care Inspectorate considers it essential that there is clarity about the role and parameters of any new agency, while it is important to ensure that the independent scrutiny role of the Care Inspectorate is not duplicated. There should also be clarity about the role of the Chief Social Work Advisor to Scottish Government and how this role relates to the National Care Service.”

In our response to the Health, Social Care and Sport Committee on the National Care Service (Scotland) Bill we reflected on the potential benefits of a National Social Work Agency, commenting:

“The Bill’s policy memorandum notes that the National Care Service will provide opportunities for training and development, including the creation of a National Social Work Agency providing national leadership, oversight and support. The Care Inspectorate hopes that the creation of a National Social Work Agency will promote the value of social work and support improvements in learning and development opportunities for social workers and social work managers. This should attract more entrants to the profession and improve retention.”

#### Regulation of care services and a NSWA

- Are the existing Health and Care standards fit for purpose? Would they need to be modified if the Bill is passed and, if so, in what way?

The Care Inspectorate fully supports the Health and Social Care Standards which clearly articulate what every person in Scotland should expect from health and social care provision:

1. I experience high quality care and support that is right for me.
2. I am fully involved in all decisions about my care and support.
3. I have confidence in the people who support and care for me.
4. I have confidence in the organisation providing my care and support.

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5. I experience a high-quality environment if the organisation provides the premises.
6. If I am an adult living in a care home and restrictions to routine visiting are needed to prevent infection, I can nominate a relatives/friends (and substitutes) to visit me. My nominated relatives/friends will be supported by the care home to see me in person day-to-day and to be directly involved in providing my care and support if that is what I want.
7. If I am an adult living in a care home, I can nominate a relatives/friends (and substitutes), who will be supported by the care home to be directly involved in providing my day-to-day care and support if that is what I want.

All social care services in Scotland must register with the Care Inspectorate. Our [inspection frameworks](#) take account of the Health and Social Care Standards and good practice guidance, and we are committed to taking an intelligence-led, risk-based and targeted approach to scrutiny, assurance, and improvement support.

These standards and the underpinning principles of dignity, respect, compassion and being included, along with responsive care and support which enhances wellbeing, should feature more strongly in relation to the options for how an individual's needs are assessed and supported. These principles are fully aligned with the fundamental principles of self-directed support: participation; dignity; involvement; informed choice; collaboration; innovation; responsibility; and risk enablement. They are equally aligned with a human rights-based approach based on the principles of participation, accountability, non-discrimination, empowerment and legality. The Health and Social Care Standards can form the backbone of the aspirations of Getting it Right for Everyone in Scotland.

We believe the national Health and Social Care Standards should be explicit within the proposed National Care Service structure of standards and processes. The Health and Social Care Standards are focused on human rights and personal outcomes and were developed following extensive engagement and are particularly informed by people with lived experience. The proposed structure of standards should be compatible with and aligned with these agreed Standards.

The Scottish Government has already published two new Health and Social Care Standards for adult care homes that has put Anne's Law into practical effect while legislation is being prepared (standards 6 and 7 outlined above). Implementation of these two new Standards will enable care homes to build on existing good practice in supporting meaningful contact, including visiting and support from people important to them when this is their choice.

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- Are the provisions of the Bill allowing for a quicker process for cancelling a care service registration appropriate? Under what circumstances might this power be used?

Section 42 modifies [section 64](#) of the Public Service Reform (Scotland) Act 2010 (“the PSR Act 2010”) to enable ministers to prescribe by order circumstances in which the Care Inspectorate can move directly to proposing to cancel a care service’s registration without first issuing an Improvement Notice.

While we agree with the provision being proposed, we would suggest that consideration should also be given to how enforcement action and in particular, Improvement Notices might be capable of enhancement to require not only improvement, but sustained improvement. We hope this may be covered in the circumstances prescribed by Ministers (S42) when these are produced.

The National Care Service Bill – and now the Independent Review of Inspection, Scrutiny and Regulation - provide an opportunity, which should not be missed, to consider the regulatory regime as set out in statute more generally with a view to holistic reform. For example, addressing issues with registration arrangements may reduce the need for enforcement action “downstream”. We would suggest that consideration is given as to whether arrangements for registration of care services should be more stringent or prescriptive, including in relation to the “fitness” of applicants.

Consideration should also be given to arrangements to address the lack of transparency sometimes encountered as to the true ownership of care services, whether prospective or registered, and to the relative ease with which new companies (often in the same ownership as existing providers) can take over care services, unencumbered by a poor regulatory history. While registration of care services and their regulation currently takes place at “service” level, consideration should be given as to whether some aspects of regulation should be capable of taking place at “provider” level, where a provider operates more than one registered care service.

The Independent Review of Inspection, Scrutiny and Regulation is underway and is expected to consider many of the issues outlined above. We will continue to engage with the Review and await its findings, to be published in June 2023.

#### Mental health support and protection functions

- What further clarity is required in the Bill with respect to the protection of people subject to mental health and capacity legislation?

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- What mental health services and responsibilities should be transferred if care boards are established – what precautions should be taken?

Some older adult mental health inpatient services are delegated to IJBs, while other inpatient services and specialist community supports are within the NHS. This approach to service design can result in a disjointed approach to service delivery for individuals. Yet, to fully embed mental health services in either the NHS or National Care Service is not necessarily a perfect solution.

The Care Inspectorate, working with HIS, considered the strategic planning of mental health services in a number of partnerships as part of the joint inspections of the effectiveness of strategic planning. We [found evidence](#) of important strategic planning for integrated mental health services under a number of the existing integration joint boards. Further exploration of available information relating to how mental health services have been developed, sustained and performed while delegated to integration joint boards would better inform considerations regarding the future of mental health services in the National Care Service.

#### Role of the SPSO and complaints

- What should be the relationship between a complaints handling process and the proposed Health and Social Care Standards?

Section 14 (Complaints service) of the Bill states that ministers must provide a complaints service for receiving complaints about the services that the National Care Service provides and passing those complaints on to the appropriate person. Section 15 gives ministers the power “to make provision in regulations about the handling of complaints” about services provided by the National Care Service and any other social service defined by [section 46](#) of the PSR Act 2010.

The current arrangements for making complaints about registered social care services to the Care Inspectorate, as the independent scrutiny body, work well and they ensure protection to people who are experiencing care in Scotland. Managing complaints is a unique feature for a statutory social care regulator and means we have a clear role and processes in place as the central regulatory point for raising concerns. In addition to this, it is extremely important that the Care Inspectorate retains the ability to quickly and effectively gather intelligence and learn from complaints, as this is crucial to informing our scrutiny, assurance and quality improvement work.

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The role of the provider in dealing with complaints about its services should not be diminished. However, it is also vital that the right for people to make a complaint directly to an independent scrutiny body, without first having to exhaust the provider's complaints process, is retained. This duty was transferred from the Regulation of Care (Scotland) Act 2001 into the PSR Act 2010 because of the particular vulnerability of people experiencing care services and the power imbalance between providers and recipients of care services. We would note that the Care Inspectorate is well recognised by people who experience care, relatives and staff who work in services, evidenced by 5,595 complaints received by the Care Inspectorate in 2021/22.

It is not clear from the Bill or accompanying documents, how the proposed new complaints service will interact with our own complaints system, and this is an area that will require clarification. It will be important that the route to making complaints is not hampered by additional steps, complaints are dealt with in a timely manner, that we can use the intelligence that we gather from complaints to inform our scrutiny, assurance and quality improvement support to services, and that the process continues to be clearly understood by the public. It will also be important that built into any complaints system is advocacy or support for people who are making complaints about professionals' decisions.

Intelligence from complaints is of critical importance to our wider role as a scrutiny body. It is used as 'intelligence' to inform the scrutiny of care services. This in turn helps us to identify risk, the responsiveness of services and the most appropriate scrutiny intervention, including prioritising inspections where necessary. Therefore, keeping the regulated care services complaints function alongside the other regulatory functions, including inspection, strengthens our role as the regulator. Research has highlighted the important role of complaints in upholding care standards ([Outcome of Complaints Research for the Care Inspectorate](#), 2013).

We believe that there must be a culture change to ensure all organisations view complaints handling as an improvement tool. This is more than having a policy, but about hearing from people, improving outcomes and having an open culture that embraces feedback.

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### Monitoring of the NCS

- Does the Bill make sufficient provision for independent oversight of monitoring and evaluation of the proposed National Care Service? By this we mean, what benchmarking or other means are required to ensure that implementation of structural changes and service reform is successful, and the impact of changes is independently evaluated and assessed?

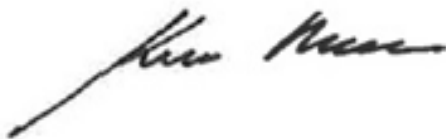
The Care Inspectorate is committed to continuing our scrutiny role and supporting improvement in social care and social work, regardless of the structure we are part of. We are used to working effectively in a collegiate manner across a complex landscape and within different structures.

Success of structural changes and service reform will depend on how the Bill is interpreted on the ground, consistent implementation, and how well the system is resourced and monitored. Specific consideration needs to be given to the structures and support required for strong, effective professional leadership of social care and social work at the highest levels and in sufficient numbers within the National Care Service and any local community health and social care partnership boards.

Effective reform must also deliver cultural change and a human rights approach – as mentioned above, we would like to see the Health and Social Care Standards underpin any new model to provide a framework for person-centred, human-rights based and outcome focussed social care provision.

We would also reiterate that the Independent Review of Inspection, Scrutiny and Regulation is underway and is expected to consider many of these issues. We will continue to engage with the Review and await its findings, to be published in June 2023.

Yours sincerely



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## Who we are and what we do

The Care Inspectorate is the independent scrutiny, assurance and improvement support public body for social care and social work in Scotland. We carry out our functions set out in the Public Services Reform (Scotland) Act 2010 and Public Bodies (Joint Working) (Scotland) Act 2014 and employ around 600 staff across Scotland.

All social care services in Scotland must register with the Care Inspectorate. Our [inspection frameworks](#) take account of the Health and Social Care Standards and good practice guidance, and we are committed to taking an intelligence-led, risk-based and targeted approach to scrutiny, assurance, and improvement support.

We use evidence from scrutiny, other information and data we gather as intelligence to use our resources effectively and efficiently. We rigorously monitor services, gathering and analysing intelligence, which helps to target our scrutiny approaches, as well as helping to shape and influence local and national policy and practice.

We have powers of entry to care services and to require changes in service delivery. We can make requirements for improvement and can take enforcement action where it is identified people are at risk. We investigate complaints about registered care services, acting on the concerns and complaints people raise. We work with other scrutiny and improvement bodies, such as Healthcare Improvement Scotland (HIS), HM Inspectorate of Constabulary in Scotland (HMICS), Education Scotland and Audit Scotland to look at how social work and social care is provided by community planning and health and social care partnerships (HSCPs).

We are an executive non-departmental public body sponsored by the Scottish Government Directorate for Health and Social Care Integration. We are funded by a mixture of grant in aid provided by the Scottish Government and fees charged to care service providers. Our expenditure budget for 2021/22 is £40.820m.

**We currently regulate just over 12,100 services with around 188,000 staff.**

As of 31 May 2021 there are:

- 38 adoption services
- 71 adult placement services
- 1,399 care home services
- 17 childcare agencies
- 4,252 childminders
- 3,590 day care of children services

- 59 fostering services
- 1,050 housing support services
- 113 nurse agencies
- 5 offender accommodation services
- 61 school care accommodation services
- 5 secure accommodation services
- 1,478 support services

## **Executive Summary**

The Care Inspectorate welcomes the opportunity to comment on the wide-ranging proposals in the consultation on a National Care Service. The proposals will have significant implications for those who experience, provide and commission care in Scotland, and as such it is important that all available evidence and experience is considered before any final decisions are made on the establishment of a National Care Service and its eventual form.

We have carefully considered the consultation document and its questions, offering evidence where appropriate to do so. However, we would like to highlight a number of key points:

- Structural change alone will not necessarily improve outcomes – any shift to a national approach will have to be accompanied by cultural change and a commitment to local accountability while keeping people who experience care and their families meaningfully involved in decision making.
- Regardless of structure, an effective system must be based on a commitment to strong collaborative relationships, leadership, remuneration and development of the workforce, commissioning practice and resourcing.
- It is important to acknowledge the scale, complexity and speed of what is being proposed in the establishment of a National Care Service – it would be useful to see more detail and evidence supporting the proposals, as well as learning from past experience of sectoral reform.
- It is important to recognise the different cultures across health and social care, and the distinct environment of a social care setting, to allay fears of a disproportionate focus on a medical model.
- Similarly, the breadth and depth of the role of social work needs to be carefully considered and recognised to ensure it is given due parity if it is to be within the scope of the National Care Service.
- The Health and Social Care Standards provide a framework for person-centred, human-rights based and outcome focussed social care provision, yet are barely mentioned in the consultation document – we would like to see the Health and Social Care Standards underpin any new practice model.
- While a more strategic and co-ordinated approach to quality improvement would be welcomed, it is important that the elements of the quality improvement infrastructure that work well are retained. In particular the

linkages to our scrutiny and assurance activity are critical in order to support improvement in the social care sector in a targeted and timely way.

- The changes being proposed will have significant implications for the social care sector, both adult and children's social care and social work services, as well as the early learning and childcare sector. It is essential that all available evidence and experience is considered in taking forward these changes. We are keen to ensure that there is sufficient recognition of children's services as well as adult's services.
- We agree that regulation and inspection should be independent of the National Care Service and carried out by the Care Inspectorate as the regulator for the full range of social care services and social work – any proposals for an alternative model would need to be considered very carefully and only once the final shape of the National Care Service and its functions are agreed and confirmed.
- The Care Inspectorate is extremely well placed to take on a market oversight role and we would welcome responsibility for it. We also welcome the inclusion of core principles for scrutiny and assurance activity, as well as the proposed additional powers in respect of condition notices, improvement notices and cancellation of services.
- It is vital that the right for people to make a complaint directly to an independent scrutiny body is retained - the proposed commissioner role could be an effective independent voice of people experiencing care, but we stress the importance of the Care Inspectorate retaining the ability to quickly and effectively gather intelligence and learn from complaints.

## Questions

### Improving care for people

#### Improvement

**Q1.** What would be the benefits of the National Care Service taking responsibility for improvement across community health and care services? (Please tick all that apply)

- Better co-ordination of work across different improvement organisations
- Effective sharing of learning across Scotland
- Intelligence from regulatory work fed back into a cycle of continuous improvement
- More consistent outcomes for people accessing care and support across Scotland
- Other – please explain below

The Care Inspectorate has a proven track record in facilitating and leading quality improvement programmes, such as the [Care About Physical Activity](#) programme, from initiation and design to implementation and delivery. It is important for the Care Inspectorate to retain this role and the critical linkages to our scrutiny and assurance activity, in order to support improvement in the social care sector in a targeted and timely way.

The Care Inspectorate strongly believes a more strategic and co-ordinated approach to quality improvement across the social care landscape could ensure that activity is more equitable to the needs of the whole social care sector. However, it will be important to retain the elements of the quality improvement infrastructure that work well and respond, both locally and nationally, to the needs of the social care sector.

Quality improvement should also be applied across planning, commissioning and social work functions, as currently quality improvement activity largely consists of improvement support to care services. The role of regulation in improving care, as well as addressing service inadequacies, should be recognised as part of a wider understanding of quality improvement.

The Care Inspectorate, working with Healthcare Improvement Scotland, has developed a joint proposal to codesign a National Improvement Programme for social care in response to the recommendations set out in the Feeley review. Scotland benefits from a wealth of improvement bodies and assets across health and social care, and these organisations can play a key role in this programme. Central to the design of this programme will be ensuring the right input, at the right time from the right organisations and from people experiencing care.

Therefore, we believe the role of the National Care Service should be to: reduce opportunities for duplication in work developments; raise the profile of quality improvement locally and nationally; enable effective practice sharing, particularly the

scale and spread of successful testing; and strengthen the opportunities to rapidly build quality improvement capacity and capability of the workforce within the social care sector.

This would mean individual organisations, such as the Care Inspectorate and Scottish Social Services Council (SSSC), retaining their unique and established identities as understood by the sector, and working in a whole systems approach, without diluting the offer for quality improvement which is currently available.

**Q2.** Are there any risks from the National Care Service taking responsibility for improvement across community health and care services?

1. Separating quality improvement support from scrutiny risks distancing inspection as a diagnostic tool which shapes and drives quality improvement and gives early indicators of poor care delivery. There are huge benefits to quality improvement support being closely aligned with scrutiny and assurance and associated intelligence functions, especially the ability to link it directly to scrutiny evidence robustly and quickly. The Scottish model of care regulation and improvement, with the Care Inspectorate's quality frameworks based on the Scottish Government's Health and Social Care Standards, blends the advantages of scrutiny and improvement. The greatest and widest impact is only achieved by scrutiny and improvement methodologies working seamlessly together. Improvement is a core purpose and influences all the work we undertake at the Care Inspectorate to achieve high quality care experiences.

Introducing a duty for scrutiny bodies across the public domain to improve - as well as regulate and inspect services - has been positive and has resulted in scrutiny becoming more joined-up and outcome focussed. The critical relationships that Care Inspectorate staff have with services and providers through our scrutiny and assurance activity, supports and enables quality improvement in the sector. The Care Inspectorate has been able to support all services to raise quality far more effectively through giving advice, producing good practice guidance and other supports, than if we had only been able to diagnose and point out where the problems lay. For example, the Care Inspectorate's large-scale [Care about Physical](https://hub.careinspectorate.com/how-we-support-improvement/care-inspectorate-programmes-and-publications/careabout-physical-activity/) <https://hub.careinspectorate.com/how-we-support-improvement/care-inspectorate-programmes-and-publications/careabout-physical-activity/> [Activity programme \(CAPA\)](https://hub.careinspectorate.com/how-we-support-improvement/care-inspectorate-programmes-and-publications/careabout-physical-activity/) supported national and local organisations to promote physical activity in care settings to enable older people to move more and live well. In total, more than 2,500 participants across 18 partnership areas took part creating impactful and long-lasting improvements in social care services. Similarly, our Medicines Improvement Project significantly reduced medication incidents in participating care homes using quality improvement tools. These are just two examples of quality improvement programmes which assist with preventing the effects of ill health and, in turn, support people to feel included. The medicines project was developed and delivered to support improvement which linked to scrutiny findings and information from complaints. Alongside national and local improvement programmes, the Care Inspectorate's [Hub](#) website provides access to a range of improvement resources, advice, guidance and events aimed at supporting

improvement across services and settings in the social care and social work sectors.

Returning inspectorates to a core regulatory function alone, whether in health, social care, education or any other domain, would risk separating the roles of diagnosing where improvement is needed and helping make these improvements happen. These roles are closely related and we would stress the importance of maintaining that link.

2. The Care Inspectorate firmly believes there is a need to ensure people's voices directly influence quality improvement interventions in terms of identifying, implementing and evaluating priorities for improvement. We have learned more than ever through the pandemic that we need to ensure people's voices are not just heard but acted upon, particularly for the most disadvantaged groups and communities. Fundamentally, quality improvement requires to be driven by the voices of people who experience social care and their families. This requires an approach driven by the most up to date intelligence and people who experience care co-designing quality improvement activities. The Care Inspectorate believes that involving people in co-designing and co-producing its activities has had a strong positive impact on all our work, supporting improvements in social care across Scotland.

The Care Inspectorate has several innovative ways that people can co-design and co-produce scrutiny and quality improvement. This happens through our inspection volunteer programme and involving people group. In any decision for quality improvement infrastructure to operate centrally within the National Care Service, we suggest that the role of involvement must be clear and fundamentally shape the design and subsequent delivery of quality improvement interventions.

3. In any changes to the way quality improvement support is accessed, we stress the need to maintain the ability to respond effectively, timeously and efficiently to local issues and need, as well as maintaining connections and relationships to local health and social care issues and stakeholders. Quality improvement is most successful when it is carried out by the people closest to the work. A key strength across the various improvement organisations in Scotland is the breadth and scope of knowledge and expertise to draw upon.

We stress the importance of knowledge of local issues, relationships and expertise, and key stakeholders feeling empowered to be heard and contribute to quality improvement. It is important that, in any changes to improvement infrastructure, proactive quality improvement taking place before issues arise, such as service development and improvements in scrutiny and assurance frameworks, is maintained and improvement does not move further away from stakeholders and practitioners.

4. We believe quality improvement should start from the point at which people are accessing care and support. It is vital that we maintain our understanding of the nuances of local quality improvement needs. In

driving improvement at a national level, it is necessary to protect the potential for innovation and creativity to meet local needs. It is important to retain the flexibility and responsiveness at a local level to respond to the needs of individual communities, services, and/or people experiencing care against the backdrop of the creation of a National Care Service.

## Access to Care and Support

### Accessing care and support

**Q3.** If you or someone you know needed to access care and support, how likely would you be to use the following routes if they were available?

Speaking to my GP or another health professional.

Not at all likely	Unlikely	Neither likely nor unlikely	Likely	Very likely

Speaking to someone at a voluntary sector organisation, for example my local carer centre, befriending service or another organisation.

Not at all likely	Unlikely	Neither likely nor unlikely	Likely	Very likely

Speaking to someone at another public sector organisation, e.g. Social Security Scotland

Not at all likely	Unlikely	Neither likely nor unlikely	Likely	Very likely

Going along to a drop in service in a building in my local community, for example a community centre or cafe, either with or without an appointment.

Not at all likely	Unlikely	Neither likely nor unlikely	Likely	Very likely

Through a contact centre run by my local authority, either in person or over the phone.

Not at all likely	Unlikely	Neither likely nor unlikely	Likely	Very likely

Contacting my local authority by email or through their website.

Not at all likely	Unlikely	Neither likely nor unlikely	Likely	Very likely

Using a website or online form that can be used by anyone in Scotland.

Not at all likely	Unlikely	Neither likely nor unlikely	Likely	Very likely

Through a national helpline that I can contact 7 days a week.

Not at all likely	Unlikely	Neither likely nor unlikely	Likely	Very likely

Other – Please explain what option you would add.

We have not responded to the tick box options for questions 3 and 4, as we believe it is for individuals to respond, rather than give an organisational view.

However, more broadly, the Care Inspectorate strongly believes that the mechanisms for coordinating and providing the right care and support should be as accessible and inclusive as possible. There will need to be a range of methods and access points to mirror the complexity and diverse range of needs of people in Scotland who require support and interventions at all levels.

Support should also be flexible and focused on the individual, responding quickly to any change in need. Care should also be delivered following the principles of the Health and Social Care Standards.

**Q4.** How can we better co-ordinate care and support (indicate order of preference)?

- Have a lead professional to coordinate care and support for each individual. The lead professional would co-ordinate all the professionals involved in the adult’s care and support.
- Have a professional as a clear single point of contact for adults accessing care and support services. The single point of contact would be responsible for communicating with the adult receiving care and support on behalf of all the professionals involved in their care, but would not have as significant a role in coordinating their care and support.
- Have community or voluntary sector organisations, based locally, which act as a single point of contact. These organisations would advocate on behalf of the adult accessing care and support and communicate with the professionals involved in their care on their behalf when needed.



The co-ordination of care and support must ensure that people who experience care have choice and control in their lives, with support from the appropriate professionals. Any individuals or organisations coordinating care must do this with - not for - the individual. This should be person-centred and aligned with the principles of self-directed support: participation; dignity; involvement; informed choice; collaboration; innovation; responsibility; and risk enablement. If a lead professional role is created, consideration should be given how the role can engage across the different agencies involved in providing care. It may be that a lead professional might need to ask an agency to prioritise an individual's needs over agency priorities.

The focus of care should be to improve an individual's overall quality of life. Giving the right care and support at the earliest possible stage can also have a positive impact on the wider health and social care system in the longer term.

### Support planning

**Q5.** How should support planning take place in the National Care Service? For each of the elements below, please select to what extent you agree or disagree with each option:

**a. How you tell people about your support needs**

Support planning should include the opportunity for me and/or my family and unpaid carers to contribute.

Strongly Agree	Agree	Neither Agree/Disagree	Disagree	Strongly Disagree

If I want to, I should be able to get support from a voluntary sector organisation or an organisation in my community, to help me set out what I want as part of my support planning.

Strongly Agree	Agree	Neither Agree/Disagree	Disagree	Strongly Disagree

**b. What a support plan should focus on:**

Decisions about the support I get should be based on the judgement of the professional working with me, taking into account my views.

Strongly Agree	Agree	Neither Agree/Disagree	Disagree	Strongly Disagree

Decisions about the support I get should be focused on the tasks I need to carry out each day to be able to take care of myself and live a full life.

Strongly Agree	Agree	Neither Agree/Disagree	Disagree	Strongly Disagree

Decisions about the support I get should be focused on the outcomes I want to achieve to live a full life.

Strongly Agree	Agree	Neither Agree/Disagree	Disagree	Strongly Disagree

**c. Whether the support planning process should be different, depending on the level of support you need:**

I should get a light-touch conversation if I need a little bit of support; or a more detailed conversation with a qualified social worker if my support needs are more complex.

Strongly Agree	Agree	Neither Agree/Disagree	Disagree	Strongly Disagree

If I need a little bit of support, a light-touch conversation could be done by someone in the community such as a support worker or someone from a voluntary sector organisation.

Strongly Agree	Agree	Neither Agree/Disagree	Disagree	Strongly Disagree

However much support I need, the conversation should be the same.

Strongly Agree	Agree	Neither Agree/Disagree	Disagree	Strongly Disagree

Light touch and/or more detailed support planning should take place in another way – please say how below

We have not responded to the tick box options for question 5, as we believe it is for individuals to respond, rather than give an organisational view.

The Care Inspectorate fully supports the Health and Social Care Standards which clearly articulate what every person in Scotland should expect from health and social care provision:

- 1: I experience high quality care and support that is right for me.
- 2: I am fully involved in all decisions about my care and support.
- 3: I have confidence in the people who support and care for me.
- 4: I have confidence in the organisation providing my care and support.
- 5: I experience a high-quality environment if the organisation provides the premises.

These standards and the underpinning principles of dignity, respect, compassion and being included, along with responsive care and support which enhances wellbeing, should feature more strongly in relation to the options for how an individual's needs are assessed and supported. These principles are fully aligned with the fundamental principles of self-directed support: participation; dignity; involvement; informed choice; collaboration; innovation; responsibility; and risk enablement. They are equally aligned with a human rights-based approach based on the principles of participation, accountability, non-discrimination, empowerment and legality. The

Health and Social Care Standards can form the backbone of the aspirations of Getting it Right for Everyone in Scotland.

Support planning should ensure people have choice and control in their lives. If the standards are used fully, the person is not just at the centre of support planning but each person has choices, is empowered and in control. If the standards are used fully, the individual receives the right level of support, and the support is flexible and responsive to any change in need. We must ensure that initial conversations focus on outcomes for the person and not on preconceived ideas of the level of support to be provided. A more intensive person-centred approach will need to be available for people who have communication challenges and advocacy for those who require support with decision making. Working in this way can be resource intensive and requires workers to be allowed time to make relationships and get to know people. This will need to be factored into the new model to enable a person-centred approach.

It is crucial that the unique role of social work is not lost. Social work professionals have an important range of professional skills and knowledge, including: assessing need; managing risk; ensuring human rights-based and person-centred practice; determining when levels of risk are such that escalation is required to protect people; and ensuring work is carried out in line with the appropriate legislation.

**Q6.** The Getting It Right For Everyone National Practice model would use the same language across all services and professionals to describe and assess your strengths and needs. Do you agree or disagree with this approach?

Agree

Disagree

Please say why.

The Care Inspectorate welcomes any initiative which improves communication, collaboration and, importantly, outcomes for individuals experiencing care. However, the Care Inspectorate firmly believes that the Health and Social Care Standards and human rights legislation should be central to any new practice model. The Standards are for everyone, irrespective of age or ability, ensuring everyone has a right to the same high-quality care and support. These Standards are an important and essential framework for any new practice model.

We strongly support a strengths and assets based model which takes account not only what a person needs, but also includes their wishes, choices and aspirations for living a full and meaningful life. A common language and practice model, which reflects the principles of choice, control and empowerment, may reduce duplication and ensure that different professional disciplines reach agreement through a common understanding and shared vision.

We would also hope that all learning from Getting it Right for Every Child (GIRFEC) is used to shape this approach and the implementation of self-directed support. Fundamentally, any practice model must be co-designed and co-produced with people who experience care.

**Q7.** The Getting It Right for Everyone National Practice model would be a single planning process involving everyone who is involved with your care and support, with a single plan that involves me in agreeing the support I require. This would be supported by an integrated social care and health record, so that my information moves through care and support services with me. Do you agree or disagree with this approach?

- Agree  
 Disagree

Please say why.

Again, the Health and Social Care Standards provide a framework and set of principles for all services across health and social care to get it right for everyone.

We recognise that one of the biggest challenges in the integration of health and social care has been the lack of joined up systems for information sharing. A single plan should reduce duplication and will mean that people who use services will not have to keep repeating their circumstances. However, there are often a number of services that are involved in developing and implementing care and support plans. Some of these might be out with health and social care but should also have the opportunity to share and input. Ensuring the correct systems and information sharing protocols are in place, and ensuring these are fully understood by everyone involved, will be more important than having one electronic system.

Implementation of this system will be complex, but we believe that the benefits of providing a more joined up and holistic planning process, resulting in a single agreed plan will be significant. Clearly protocols around information sharing will need very careful consideration to ensure that these actively support and promote appropriate information sharing yet ensure that an individual's rights are not infringed.

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

- Agree  
 Disagree

Please say why.

In theory the idea of a National Practice Model could improve outcomes for people, depending on how it is designed and, importantly, how it is implemented.

We strongly advocate for the use of the Health and Social Care Standards to be used as the guiding principles in the development of any new practice model.

We strongly encourage the early involvement of people experiencing care and their families in the development and testing of any new model and would hope to see the use of robust improvement methodology.

This model has the potential to focus on meeting the individual's needs. The challenge of coordinating services would be for the different professionals and

hopefully the common language as part of the model would support improved communication.

In order to achieve change and improved outcomes for people, there will need to be a culture shift as part of introducing a new practice model. The model needs to build on the language of self-directed support, with a focus on assets rather than deficits and reflecting the shift in culture to one of empowerment, choice and control.

For a Getting it Right for Everyone approach to work for adult social care, the Care Inspectorate believes that similar levels of scrutiny should be applied to the quality of individual assessment and support planning as there is to the quality of the commissioned services. It is important that there is a focus on scrutinising assessment, support planning and the outcomes achieved for individuals to ensure a genuinely holistic Getting it Right for Everyone approach. It would need to focus on whether people with lived experience are achieving good outcomes in health, wellbeing and quality of life.

Finally, the Care Inspectorate expects to see ongoing evaluation of any new practice model and the maturity in the system to change course and evolve as required.

## Right to breaks from caring

**Q9.** For each of the below, please choose which factor you consider is more important in establishing a right to breaks from caring. (Please select one option from each part. Where you see both factors as equally important, please select 'no preference'.)

Standardised support packages versus personalised support

<input type="checkbox"/> Personalised support to meet need	<input type="checkbox"/> Standardised levels of support	<input checked="" type="checkbox"/> No preference
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A right for all carers versus thresholds for accessing support

<input checked="" type="checkbox"/> Universal right for all carers	<input type="checkbox"/> Right only for those who meet qualifying thresholds	<input type="checkbox"/> No preference
--	--	--

Transparency and certainty versus responsiveness and flexibility

<input type="checkbox"/> Certainty about entitlement	<input type="checkbox"/> Flexibility and responsiveness	<input checked="" type="checkbox"/> No preference
--	---	---

Preventative support versus acute need

<input checked="" type="checkbox"/> Provides preventative support	<input type="checkbox"/> Meeting acute need	<input type="checkbox"/> No preference
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**Q10.** Of the three groups, which would be your preferred approach? (Please select one option.)

- Group A – Standard entitlements

- Group B – Personalised entitlements
- Group C – Hybrid approaches

Please say why.

We are strongly in favour of a hybrid model of support for carers. Our view is that carers have the right to personalised support which meets their individual needs, alongside a degree of certainty which a standardised entitlement would provide. We are hopeful that a standardised entitlement could shift the priority given to carers support and stimulate expansion in provision while recognising that each carer is an individual with unique needs.

We strongly believe that all carers have a universal right to access support. We acknowledge the valuable contribution which carers make as an essential and equal partner in the provision of social care, fulfilling a significant demand which would otherwise need to be filled by statutory services.

We also support a flexible and responsive approach to support, which puts people at the heart of their support, empowering carers and ensuring they have choices and are in control. Support needs to be flexible and responsive to changing needs, but also needs to offer certainty if carers are to be able to lead productive lives alongside their caring roles. We believe that carers need to know and understand their entitlements and that in itself can give support and aid resilience.

We strongly support a preventative approach to support. Carers and the people they support should be provided with the means to have the choice to live full and productive lives in their own homes and communities. We would support carers' assessments being carried out earlier to support this preventative approach, and a greater emphasis on identifying carers so that they can access the right support at the right time rather than waiting for crisis.

## Using data to support care

**Q11.** To what extent do you agree or disagree with the following statements?

There should be a nationally consistent, integrated and accessible electronic social care and health record.

Strongly Agree	Agree	Neither Agree/Disagree	Disagree	Strongly Disagree
x				

Information about your health and care needs should be shared across the services that support you.

Strongly Agree	Agree	Neither Agree/Disagree	Disagree	Strongly Disagree
x				

**Q12.** Should legislation be used to require all care services and other relevant parties to provide data as specified by a National Care Service, and include the requirement to meet common data standards and definitions for that data collection?

Yes

No

Please say why.

We agree that legislation should be used, but in an enabling sense (data must be provided as required and should comply with the specified standards and definitions), rather than requiring too much detail.

The legislation should include provisions to enable the appropriate and safe sharing of data between organisations. It should also enable the National Care Service to capture data on behalf of another body (or ask another body to capture data on its behalf) if required, in particular if this relates to the delivery of a statutory function and if this avoids duplication of data collection or redundant data capture.

To achieve these requirements, services providing care from across all sectors must be realistically resourced, both in terms of investment in technology and appropriately skilled staff at the frontline, in order to comply with such legislation and benefit from it.

**Q13.** Are there alternative approaches that would address current gaps in social care data and information, and ensure a consistent approach for the flow of data and information across the National Care Service?

The Care Inspectorate would suggest that a data strategy for health and social care at its widest is required to bridge the very different ethos and design of health and social care delivery and enable the flow of high-quality data at the right time to the right place.

We suggest adopting the Scottish Approach to Service Design (SAtdSD) which ensures a user-centred approach, making it simple, clear and easy for stakeholders, such as care providers and staff, to supply information that is complete, accurate and timely. Individual subjects should be aware of data recorded about them and should have control as appropriate over who can see their personal data.

We further suggest that a similar person-centred approach to capturing data about social care staffing should be considered. There is a minimum core dataset with detailed definitions in place, which is owned and used by the SSSC, the Care Inspectorate and care providers (although not universally) when capturing data about individual staff members.

**Additional comments:**

The Care Inspectorate has a background briefing outlining key definitions in this context and what an intelligence-led scrutiny, assurance and quality improvement

approach means for our work. We would be very happy to share this with the consultation team.

A key component of the Care Inspectorate's proposal for digital transformation is the creation of a data hub that would provide a consolidated and timely view of information about care services and providers, and make it available to the National Care Service, NHS and partner organisations.

## Complaints and putting things right

### Q14. What elements would be most important in a new system for complaints about social care services? (Please select 3 options)

- X Charter of rights and responsibilities, so people know what they can expect
  - Single point of access for feedback and complaints about all parts of the system
  - Clear information about advocacy services and the right to a voice
- X Consistent model for handling complaints for all bodies
  - Addressing complaints initially with the body the complaint is about
- X Clear information about next steps if a complainant is not happy with the initial response

Other – please explain:

As a scrutiny, assurance and improvement support body, we have a unique, statutory duty to deal with complaints made to us about the registered care services that we regulate and inspect for children, including early learning and childcare, and adults. Anyone can complain to us about a care service, whoever they are. People who experience care services, care staff, and members of the public all have a right to complain about the performance of the services we regulate.

It is important to maintain flexibility within the complaints process. The role of the provider in dealing with complaints about its services should not be diminished. However, it is also vital that the right for people to make a complaint directly to an independent scrutiny body, without first having to exhaust the provider's complaints process, is retained. This duty was transferred from the Regulation of Care Act into the Public Services Reform (Scotland) Act 2010 because of the particular vulnerability of people experiencing care services and the power imbalance between providers and users.

Dealing with complaints is a unique feature for a statutory regulator and means we have a clear role and processes in place as the central regulatory point for raising concerns. Whether the regulator should retain the legal duties to directly investigate complaints was the subject of consideration by the Scottish Parliament in 2010 when the Care Inspectorate was established, and responsibilities were transferred from the Care Commission, our predecessor body. Evidence of the effectiveness of complaints as a regulatory tool in maintaining standards was a key driver informing the decision for the Care Inspectorate to retain this function.



Whistleblowing is an important element of complaints and is appropriate for the role of the regulator. A [2018 survey](#) of whistle blowers by the UK Parliament's All Party Parliamentary Group on Whistleblowing found health and social care was the sector most likely to be impacted by whistleblowing, with 42% of respondents reporting cases related to this sector, followed by education (8.2%).

Although the legislation does not specify what the process should achieve, it is clear that its purpose is to improve the quality of social care by addressing concerns raised by the individuals who complain. This is in line with the Care Inspectorate's statutory duty of providing assurance to the public on the standard of care services and its duty to support improvement in them.

Where we investigate complaints, we do so in an independent, impartial, and fair way. We believe that complainants have a right to be heard, understood, and respected and we aim to be as open and accessible as we can. Following our complaint investigations, we can make requirements for care services to improve. We follow up to ensure these improvements have been put in place. This ensures the care people receive improves and outcomes are better.

Intelligence from complaints is of critical importance to our wider role as a scrutiny body. It is used as 'intelligence' to inform the scrutiny of care services. This in turn helps us to identify risk, the responsiveness of services and the most appropriate scrutiny intervention, including prioritising inspections where necessary. Therefore, keeping the regulated care services complaints function alongside the other regulatory functions, including inspection, strengthens our role as the regulator. Research has highlighted the important role of complaints in upholding care standards ([Outcome of Complaints Research for the Care Inspectorate](#), 2013).

In order to respond in a proportionate way, we always assess the risks that a complaint presents, so we can decide the right course of action and ensure we achieve the right resolution as quickly as possible. We identify, prioritise, and respond quickly to complaints that have caused, or have the potential to cause, negative outcomes for people relating to health, safety and wellbeing. Our risk assessment process allows us to assess the risk identified by a complaint, considering what else we know about the service from our other scrutiny activities.

There are two possible outcomes when we investigate a complaint. They are either upheld or not upheld. We provide feedback to both the complainant and the service.

Where we uphold a complaint, we can take action, including making requirements or recommendations to the care service. The care service will have to give us an action plan that details how they will improve outcomes for the people who use their service. We can also re-grade a service following a complaint. We publish details of the outcome of all upheld complaints on our public website. These are listed against the service to which they refer alongside other information we hold about the service, including published inspection reports. We monitor improvements through our inspections.

If a complainant or a service that is subject to a complaint about it believe we have made a mistake in our findings and come to the wrong conclusion, they can ask us

to undertake a post investigation review. This ensures we implement the Scottish Regulator's Code with regards to decisions that we make and the right of appeal.

The current arrangements for making complaints about registered social care services with the Care Inspectorate work well and they ensure protection to people who are experiencing care in Scotland.

We believe that there must be a culture change to ensure all organisations view complaints handling as an improvement tool. This is more than having a policy, but about hearing from people, improving outcomes and having an open culture that embraces feedback.

The importance of good practice and research in complaint handling is critical to understanding what works well and what needs to be in place to ensure complaints systems meet the needs of people experiencing care. As a regulator we use this to inform our complaint procedures.

We agree that any complaints systems should be person-centred and user friendly, and, as such, we point to the ease of access to our complaints process. We were not clear if the comments made about existing complexity relate to the Care Inspectorate or more generally across local authorities, HSCPs and health boards. We receive around 5,000 complaints annually and this suggests to us that there is a good level of public awareness of the Care Inspectorate's role and responsibility for this and on how to make a complaint.

However, we agree that it may be more challenging for service users, their families or carers to make a complaint about services that are delivered in an integrated landscape, that may involve a combination of health and social work/social care staff.

### **Charter of rights and responsibilities, so people know what they can expect**

The Care Inspectorate believes that this would ensure people were aware of their rights including the right to make a complaint. It should include reference to how complaints will be received, how people will be supported and the responsibilities of the service to see complaints as an improvement tool. It should be clear, and person centred.

### **Consistent model for handling complaints for all bodies**

Built into any complaints system must be advocacy or support for people who are making complaints about professionals' decisions. Any system must be able to work across organisations to ensure that people telling their complaint and experience only do so once and that we have in place systems that capture and share information, rather than people having to repeat this to different people.

### **Clear information about next steps if a complainant is not happy with the initial response**

In our experience of operating a complaints function, it is important that people have the right to respond to the complaint outcomes. We provide people with the right to respond by requesting a post investigation review that is then carried out and people

receive feedback. It is important that people can question outcomes and that information is available to them on next steps. We regularly receive calls from people who are unsure who to complain to about health and social work services, or how they challenge complaint outcomes from statutory agencies, including the right to contact the Scottish Public Services Ombudsman (SPSO).

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

Yes

No

Please say why.

As noted previously, we stress the importance of the Care Inspectorate retaining the ability to quickly and effectively gather intelligence and learn from complaints.

However, we believe that the proposed commissioner role could be an effective independent voice of people experiencing care. It could also help to improve public accessibility, increase awareness and empower people to claim their right to high quality care. A commissioner could also play an important role in connecting other scrutiny bodies and ombudsmen to ensure that the gaps and blurred boundaries between professional silos are filled, clarified, and simplified for complainants. The pandemic has highlighted the need for a stronger voice for people experiencing care and their families.

It is important to be clear on how this role would work in relation to, and not duplicate, the roles of other commissioners and the Scottish Public Services Ombudsman (SPSO).

**Q16. Should a National Care Service use a measure of experience of those receiving care and support, their families and carers as a key outcome measure?**

Yes

No

Please say why.

The Care Inspectorate is the independent scrutiny and improvement body for social care and social work across Scotland. We regulate, inspect and support improvement of care services for the benefit of the people who use them. We aim to ensure that people receive safe, high-quality, compassionate care that meets their needs and promotes their rights and choices. Central to this is hearing from people who experience care and their relatives. We do this by speaking to people who experience care, speaking to relatives and also through direct observation of the care people experience who cannot share their views. We also enable feedback through questionnaires and through our concerns and complaints functions.

We therefore strongly support a measure of experience as a key outcome for people which is based on feedback directly from those experiencing care and their relatives in the National Care Service. This will ensure that performance is linked to the real

experience of people and is person centred. It is also important we assess from experience what difference health and social care services have made to the lives of people and their needs.

The Care Inspectorate's inspection volunteer programme involves volunteers with personal experience of care services. They play a crucial part in our inspection process of both regulated care services, health and social care partnerships and community planning partnerships. Their role is to add value to inspections by talking to people using care services and their relatives, asking relevant questions, listening and recording their comments. They also make appropriate observations based upon their own experiences and share this feedback with the inspector and care service manager. Our young inspection volunteers are aged 18-26 also have experience of care. They play an important role on inspection, by hosting focus groups, carrying out one-to-one interviews and facilitating group discussions with young people using services and professionals providing the services. We recognise that our young inspection volunteers have the voice of experience and we know from our work with them that no one has better knowledge or understanding of the services than the children and young people experiencing them.

## Residential Care Charges

**Q17.** Most people have to pay for the costs of where they live such as mortgage payments or rent, property maintenance, food and utility bills. To ensure fairness between those who live in residential care and those who do not, should self-funding care home residents have to contribute towards accommodation-based costs such as (please tick all that apply):

- Rent
- Maintenance
- Furnishings
- Utilities
- Food costs
- Food preparation
- Equipment
- Leisure and entertainment
- Transport
- Laundry
- Cleaning
- Other – what would that be

We do not feel it is for us to comment on issues relating to charges.

**Q18.** Free personal and nursing care payment for self-funders are paid directly to the care provider on their behalf. What would be the impact of increasing personal and nursing care payments to National Care Home Contract rates on:

Self-funders

Care home operators

Local authorities

Other

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

Yes

No

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

## National Care Service

**Q20.** Do you agree that Scottish Ministers should be accountable for the delivery of social care, through a National Care Service?

- Yes
- No, current arrangements should stay in place
- No, another approach should be taken (please give details)

The proposals will have major implications for local authorities, integration boards, health boards, health and social care partnerships, and public services such as community healthcare. Should a National Care Service be established, clear lines of accountability and engagement will need to be in place to support any bodies that work within or sit alongside the new structure. Any changes must also keep people experiencing care and their families involved in decision-making.

Any changes to systems, processes and structures must also deliver cultural change to ensure person-centred, human rights-based care based on the Health and Social Care Standards, in order to lead to better outcomes for people experiencing care. Regardless of structure, characteristics of an effective social care system will include: strong, clear collaborative relationships across all sectors; effective leadership and leadership development; recognition of social care and social work on an equal footing with the NHS; remuneration at a level that serves to attract and retain the workforce, conditions and training for the workforce; commissioning practice that is responsive to people's needs; as well as adequate resourcing and good capital estate in terms of where services are delivered.

The changes being proposed will have significant implications for the social care sector, both adult and children's social care and social work services, as well as the early learning and childcare sector. It is essential that all available evidence and experience is considered in taking forward these changes. We are keen to ensure that there is sufficient recognition of children's services as well as adult's services.

With regard to potential benefits, we would welcome any changes that would lead to greater priority for social care. However, care should be taken to ensure that in developing a National Care Service alongside the NHS, social care is given its due prominence in the wider health agenda.

Finally, we welcome the consultation process and would wish to see ongoing engagement with 'listening panels' to share ideas and improve services, while keeping in mind the current pressures on the social care sector and the need to ensure that individual services or providers have the capacity to conduct meaningful engagement.

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

Closer consideration should be given to how early learning and childcare (ELC) services relate to the new National Care Service and its functions once these are determined.

The Scottish Government's goal is to make Scotland the best place in the world for children to grow up. A key policy to support delivery of this goal was the expansion of ELC to 1140 hours for all three and four year olds, and eligible two year olds, which was delivered in August 2021. There are ongoing Scottish Government workstreams in relation to supporting improvement, quality and the implementation of the National Standard for ELC and funding follows the child.

During this term of the Scottish Parliament, there are two further key priorities for Government that will impact on this sector; free early learning and childcare for one and two year olds and building a wraparound childcare system providing before and after school care all year round. We feel it is therefore crucial that the ELC sector is closely considered alongside, but not necessarily within, the scope of the National Care Service.

More than half of the care services that the Care Inspectorate regulates are ELC, yet the consultation makes no reference to this sector. A strength of the Care Inspectorate's work is regulating care across the life journey, and we believe that it is important to retain this function. We consider that the full range of services as currently regulated by the Care Inspectorate - from early years to adult services - provides a comprehensive overview of how these services perform and interrelate across Scotland's communities. It is therefore crucial that the regulation and scrutiny of the ELC sector is considered alongside, but not within, the consultation on the National Care Service.

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

We agree that scrutiny and inspection of social care services and social work should continue to be independent and carried out by the Care Inspectorate as the regulator for the full range of social care services and social work. The Care Inspectorate plays a critical role in ensuring that care services in Scotland are high quality and promote good experiences and outcomes. We do this by effective regulation, robust inspection and clear evidence-based reporting. We undertake activities aimed at building capacity and capability for improvement and identifying and disseminating good practice. We believe that, as a scrutiny body, our status as an independent public body is vital to ensure we continue to engender public trust and assurance. To change the role of the Care Inspectorate post pandemic could risk unsettling the sector further after a period of significant challenge. This could interrupt our progress in applying learning from the pandemic and our ability to continue to provide public assurance through our scrutiny, assurance and quality improvement work.

Scrutiny provides the diagnostic tool that identifies where improvement is needed and promotes and supports continuous improvement in care. We work with services, providing advice, guidance and sharing good practice, supporting them to develop and deliver improved care.

Our work includes registering and issuing variations, inspecting and evaluating (grading) services, dealing with complaints, enforcement action where necessary, and supporting services to improve. Our staff work across Scotland, supporting over 12,000 registered care services for adults, early learning and childcare, children and young people, and community justice. Inspectors work in specialist national teams, which enables good practice to be shared across the country.

We strongly believe that it is important that these functions remain independent of the National Care Service and within a regulator focussed on social care and social work. Any proposals for an alternative model of regulation should be considered very carefully and a firm decision on the regulatory requirements of the National Care Service should only be taken once the final shape of the National Care Service and its functions are agreed and confirmed. Whatever the arrangements chosen, it will be vital that inspection and scrutiny work is carried out by staff who have deep expertise and experience in the delivery of social care and social work services, ensuring they have high credibility in the sector and a strong understanding of the specific context in which practitioners undertake their work.

## Scope of the National Care Service

### Children's services

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

Yes

No

Please say why.

The Care Inspectorate acknowledges that the current arrangements for the governance of services for children and young people can be variable. This could potentially mitigate against the aspiration of a Getting It Right For Every Child approach, which is that children and their families should be able to readily access the help they need, as soon as they need it and for as long as they need it, without unnecessary hurdles. We note the added complexity that some ELC settings that are required to be inspected by the Care Inspectorate may also be inspected by Education Scotland where they provide funded early learning and childcare (ELC). The current review of Education Scotland provides an opportunity to review this and move to one inspection regime for ELC services that provide funded ELC. This should also be considered in the discussions on the National Care Service consultation

We have not seen evidence that bringing children's services into a National Care Service developed in response to an adult social care review will address difficulties in the system. It is not clear that children and families experience better outcomes in areas of the country where children's services are the responsibility of an integration authority rather than a local authority. We have reported on high performance and performance which needs improvement in both local authority and IJB-led arrangements. The Care Inspectorate's scrutiny evidence has been able to link performance with effective leadership, but not with the structural arrangements in place in which that leadership is exercised.

Broadly speaking, the Care Inspectorate would agree with the proposition to maintain the integrity and cohesion of social work/social care services from early years to adults/older people. Indeed, our scrutiny evidence over more than a decade of joint inspections shows that where staff delivering support and intervention for



adults whose problems impact on children work closely with staff working to support children, intervention is more effective and outcomes for children are significantly improved. This includes staff working in alcohol and drug treatment, justice and mental health services.

However, it could be argued that the development and implementation of the Public Bodies (Joint Working) (Scotland) Act 2014 should have taken more account of the impact on services for children and young people. We would stress the need to carefully consider the specific needs of children and young people in taking forward any new governance arrangements. This requires understanding of the differences in how children's services are delivered and who delivers them, including the role of the third sector in providing critical family support; what the key relationships are; how the rights of young people must be realised and supported; and the strategies for engagement and participation needed for children and young people, in comparison with adults.

It is also important to note that major reform of services for children and young people is planned and underway through The Promise and that the actions set out were developed prior to the Feeley Review and associated proposals for a National Care Service. As such, it is important to fully consider how these policy developments, as well as Getting It Right For Every Child, relate to one another and assess the best path forward, which does not risk destabilising services already significantly affected by the Covid-19 pandemic.

We would also welcome further consideration of children and young people in sections of the proposals concerning commissioning of services and market oversight (The Promise and the adult care review had different positions on the role of profit in care provision), a national complaints service, and workforce planning. The governance and commissioning of ELC services currently sit out with social work and are provided by education authorities. This complexity needs to be understood in taking forward structural changes.

The Care Inspectorate agrees with the aspiration to achieve greater consistency in the experiences and outcomes for people through the creation of a National Care Service. The Care Inspectorate's joint inspection overview reports [2012-2017](#) and [2018-2020](#) have highlighted the differences in experiences and outcomes for people living in different parts of the country. Examining NHS performance suggests that a single national service will not in itself bring equality of experiences and outcomes, but we acknowledge the potential for greater standardisation and coherence in important aspects such as placement costs, carer fees and workforce strategies.

Our overview reports also highlight the critical importance of universal services to the delivery of a Getting It Right For Every Child approach and to improving outcomes for children and families. While the proposal document notes as an aspiration closer joint working with child health services, it is important that this is not at the expense of close alignment with education services. Care needs to be taken to ensure that new arrangements do not undermine integration with education, especially where there would need to be dismantling of current arrangements, where education and children's social work are aligned in children's services departments.

In relation to ELC, children using ELC receive care through a statutory entitlement and should be afforded the same high value as is being placed on health and social

care where there are additional needs. Care in early years is much less about 'education' and more about children's health, wellbeing, nurture, and attachment, leading to well-rounded individuals as they grow. ELC needs to be recognised and strongly represented in any consideration of a future structure. High-quality ELC experiences for children will support longer term better outcomes for people in their lives. The expansion programme aims to achieve three longer term outcomes:

- Children's development improves and the attainment gap narrows
- Parents' opportunities to be in work, training or study
- Family well-being improves through enhanced nurture and support.

**Q24.** Do you think that locating children's social work and social care services within the National Care Service will reduce complexity for children and their families in accessing services?

For children with disabilities,

Yes

No

Please say why.

The Care Inspectorate recognises that young people and their families affected by disability experience very real barriers at present when dealing with, and moving between, services. It would be more helpful if services were delivered according to the specific needs of the child or young person rather than their chronological age. There tend to be very different approaches taken by child and adult disability teams, which could be significantly improved by more integration of teams, co-location and the sharing of approaches. A National Care Service may assist in reducing local variation and the inequity experienced by many families at present due to each local authority having its own policies and eligibility criteria.

However, it is important to note the role of resource constraints in relation to local authorities' eligibility criteria and the need for adequate resourcing, alongside any structural reform, to tackle inequalities.

In addition, while local variation can create apparent inequities, it can allow for decisions to be made close to children and families in response to their particular needs and circumstances. It is important that any national approach does not move decision-making further away from families or increase complexity for them. Self-directed support, while not yet well implemented in relation to children, at least has a currency within local authorities. The Care Inspectorate would want to see a person-centred approach strongly to the fore in the National Care Service, with a clear understanding of the specific needs of children and young people and approaches designed accordingly. For a National Care Service to reduce complexity for children and their families in accessing services, guidance must be written with children in mind.

For transitions to adulthood

Yes

No

Please say why.

Successful transitions are important throughout the life cycle and we are clear that people should be able to access services seamlessly when they need them, without unnecessary barriers or delays. Individuals should experience continuity in all transitions with access to the same professionals, where possible, to help provide this continuity.

We might expect transitions between child and adult services to be simpler and more effective in a National Care Service which is set up to deliver across all age groups. The Care Inspectorate agrees that it could provide a better context in which to deliver services for young adults in particular, who can miss out in the split between 'children's services and 'services for adults'. As noted in our responses to earlier questions, however, we do not think this is inevitable as it depends on how services within a single national service are organised.

The independent review of the children's care system ([The Promise](#)) and [Staying Put](#) note how we need to support children and young people for much longer to improve their outcomes and identify the importance of taking account of research findings on trauma, developmental delay, emerging adulthood and continuity of relationships. It is not a straightforward transition for many children and support needs to be organised with this understanding.

The Care Inspectorate has previously [noted](#) particular concern about poor outcomes for care leavers. A National Care Service has the potential to support clearer lines of accountability and responsibility of all services, including third sector organisations who play such an important role in supporting care leavers. It could create a context for them to have a recognised role in forward planning within nationally agreed time scales that would allow for positive outcomes to be achieved and monitored over a critical phase in the life of a young person.

For children with family members needing support

Yes

No

Please say why.

The Care Inspectorate agrees that a National Care Service could provide a context for care, support and intervention to be provided to meet the needs of whole families, in a "one-stop shop". However, this will only be the case if services are managed in a way which enables and underpins the whole family approach and important linkages are created between the National Care Service and education services. This approach, alongside high quality and responsive assessment and appropriate resourcing, is required to achieve better experiences for families. The proposals could mean more easily understood information about help available and how to access it. It may also be easier to integrate support for young carers into support for disabled parents and to implement evaluated approaches that support greater

participation of families in managing their own difficulties, such as family-based decision making.

Innovation and creativity will need to be encouraged, nurtured and supported. The meaningful involvement of the third sector will be critical, given the vital role this sector plays in providing support, including essential support to families at times they are most vulnerable. Local initiatives will need to be protected in any structural change. Adequate resourcing for effective family support at an early stage remains the greatest priority.

**Q25.** Do you think that locating children's social work services within the National Care Service will improve alignment with community child health services including primary care, and paediatric health services?

Yes

No

Please say why.

We note that better alignment of social work services for children and health services for children is a very long-standing policy ambition which has not yet been achieved.

If an integrated structure is matched with a corresponding integration of cultures, and the establishment of a new public service ethos, bringing health and care into a new organisational 'family', then we consider that alignment should be possible. Nevertheless, the Care Inspectorate considers this would be a significant challenge. Health and social work services often demonstrate different value bases and priorities. Sometimes the complex needs of children and young people who have experienced trauma could be better understood or considered by other services as part of a holistic approach.

An outcome focus for children in services should be the aspiration and aligning budgets with these improved outcomes is critical.

We could envisage that a closer alignment of children's social work services and health services for children could support more effective reviewing of adverse events, including the deaths of care experienced children and young people and significant case reviews. Should children's health and social work services be included in a National Care Service, we think it would provide an appropriate location in which to locate the National Hub for Reviewing and Learning from the Deaths of Children and Young People. The hub is critical to the implementation of improved and more consistent reviewing mechanisms and associated improvement actions, with the aim of reducing preventable deaths in Scotland.

We would repeat our comments above, that while better joint working between children's health and children's social work services is essential to achieving better outcomes for children and families, so is better joint working with education, early learning and childcare, third sector and a range of adult services. Structural change will not necessarily resolve this issue on its own.

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

Yes

No

If yes, please give examples

It should not be assumed that exchanging one structure for another will, in itself, provide a resolution to the current challenges. We note that these proposals have been brought forward following a review of adult social care and would seek further evidence to demonstrate that this is the best move to meet the needs of children and young people.

We recognise that there are risks in continuing with the current arrangements. There is a strong argument that if there is to be transformative change, children's services need to be included. To separate children's social work/social care from adult social work/social care risks creating increased divisions and further disadvantage families. However, the potential for lost opportunities for integrated approaches with education and other local authority functions, such as leisure and housing for looked after children, needs to be considered, plus the creation of additional barriers in giving effect to corporate parenting responsibilities.

While the Care Inspectorate appreciates the recognition given to keeping social work services as a single entity, it is important that the priority and profile afforded to social work services is equal to health services in a truly joined up system.

It is also important that in taking forward any changes, the core principles driving GIRFEC, The Promise and UNCRC are understood and adopted.

**Additional comments for this section:**

Currently the early learning and childcare workforce and services are regulated by the SSSC and the Care Inspectorate, with inspection of funded services shared with Education Scotland who may inspect those services providing funded ELC. While reform of shared inspections is needed in order to rationalise the ongoing dual systems, we must ensure that the benefits of the current arrangements for a more joined up approach in ELC are retained. Structural reform of adult social care, including the decision on whether services for children and young people in need of care and support are included, will have significant implications for early learning and childcare. With early learning and childcare currently forming such a large proportion of social care provision in Scotland, with services regulated by the Care Inspectorate and the SSSC, it is crucial that the ELC sector is closely considered alongside, but not necessarily within, the scope of the National Care Service.

While there are different considerations for early learning and childcare, given the universality of funded provision and the shared scrutiny and improvement responsibilities of the Care Inspectorate and Education Scotland for that element of the service provision, the current governance arrangements work well with education authorities. Any reform to other parts of social care should ensure that these arrangements are retained. Early learning and childcare has benefitted from a holistic and integrated approach being taken by the Care Inspectorate in Scotland, with the care of young children being placed alongside young people and adults with

care and support needs including older people. Early learning and childcare includes the day care of children aged under three years, childminding, school aged childcare and childcare agencies, so a significant proportion provide care and learning which is not part of the funded entitlement. Provision for one and two year olds and wrap around childcare for school aged children are priorities for the Scottish Government. Most services that provide the funded provision also offer additional provision to children.

Early learning and childcare being included within the responsibilities of the Care Inspectorate and the SSSC contrasts with arrangements in England, with the Care Quality Commission having responsibility for the scrutiny for adult care and Ofsted for children and early years. Early learning and childcare being located within the care, rather than health or education systems, means that a rights-based, outcome-focussed, wellbeing and personalised approach has been adopted and the Health and Social Care Standards and good practice guidance apply. The model has also resulted in an increase in the status of early learning and childcare, with practitioners included as part of the mainstream professionalisation of social care, giving the sector parity.

## Healthcare

**Q27.** Do you agree that the National Care Service and at a local level, Community Health and Social Care Boards should commission, procure and manage community health care services which are currently delegated to Integration Joint Boards and provided through Health Boards?

Yes

No

Please say why.

Our view is the success of the current model would appear to rely on whether there are collaborative relationships between senior leaders in the health boards and local authorities. Where good relationships exist, it would seem that partnerships tend to be more successful at delivering integrated health and social care with an integrated vision where all parties are committed towards the same aim and can drive forward improvements. The National Care Service could have an important role in addressing various challenges, enabling community health services to align with social care and hospital-based health care to provide a whole-system approach to health and social care.

Our experience is that currently the commissioning arrangements are not always viewed as responding to needs of individuals, but rather delivering services within available resource. If a change in commissioning arrangements could focus more on needs, then this would be welcome. There is potential for Community Health and Social Care Boards to bring health and social care into one entity. Alongside this it is possible a National Care Service could provide a level of consistency, governance and accountability, which would result in greater equity and reduce the perception of a postcode lottery if it is adaptable to local needs.

We stress the need to ensure the voice and lived experience of the person experiencing care and support is front and centre in any national system. People experiencing care must be able to access the right care whenever they need it and from the most appropriate service in order to support all their health, care and wellbeing needs and enable them to live life well.

It is important that any changes take cognisance of any evidence and learning that has taken place to date in relation to integration of health and social care.

**Q28.** If the National Care Service and Community Health and Social Care Boards take responsibility for planning, commissioning and procurement of community health services, how could they support better integration with hospital-based care services?

We believe strongly that it will be important to take the learning from what has gone before and that it will be essential for the National Care Service and the CHSCBs to fully understand the whole system across primary, secondary and acute care and the interface with social care. Only by understanding fully the barriers as well as the levers for change, can integration be supported and developed. It will be important for the leaders in social care and social work to have equal status and standing as those in health and be fully involved in decision making and community planning.

Our view is that an agreed and shared vision across all parts of the system which is committed to the Health and Social Care Standards is vital. The Care Inspectorate would strongly recommend that the Health and Social Care Standards form the backbone of the CHSCBs and underpin all aspects of commissioning and service provision.

We recognise the huge challenge of aligning acute health services with primary care services. We believe strongly that whenever this is possible people should be supported to remain in their own home environment, with an emphasis on prevention, rehabilitation and reablement, using a strengths and assets-based approach to supporting people to live well. Measures for success need to be thoroughly reconsidered and we recognise the potential tensions of resource allocation and outcomes for people, the latter must be at the core of system redesign.

**Q29.** What would be the benefits of Community Health and Social Care Boards managing GPs' contractual arrangements? (Please tick all that apply)

- Better integration of health and social care
- Better outcomes for people using health and care services
- Clearer leadership and accountability arrangements
- Improved multidisciplinary team working
- Improved professional and clinical care governance arrangements
- Other (please explain below)

**Q30.** What would be the risks of Community Health and Social Care Boards managing GPs' contractual arrangements? (Please tick all that apply)

- Fragmentation of health services
- Poorer outcomes for people using health and care services
- Unclear leadership and accountability arrangements
- Poorer professional and clinical care governance arrangements
- Other (please explain below)

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

Our strong recommendation would be learning from existing systems and processes is key to developing a new model. Adequate resources in both health and social care are essential, both in terms of finance but also the skill mix and adequate number of staff to take a new way of working forward. The workforce must feel valued, supported and integral to any change. Collaborative working relationships and respectful leadership across health and social care will be vital, with a shared and agreed vision and purpose across all parts of the system.

We would advocate listening to local voices, empowering communities, and allowing for variation depending on the needs of the community. Working closely with existing HSCPs and the third sector and building on what has been working well will give a firm foundation. Communication and professional respect is a cornerstone of effective partnership working and we would like to see closer links between community health services and care at home provision which would assist in promoting a more responsive and flexible service for people with ever changing needs and health conditions.

The Health and Social Care Standards provide an excellent framework for supporting people and we would strongly encourage greater prominence of the Standards. Building on the foundation of the Standards would help allay fears of a disproportionate focus on a medical model and help to ensure that any new system is person led and takes a holistic view of health and wellbeing.

We would welcome further discussion and exploration of the Independent Living Fund. There may be ways that this could be used to meet the needs of people with complex health and social care needs.

It will be critically important to give thought to the IT infrastructure to ensure that all parts of the system can communicate effectively and efficiently. Equally integrated data systems will enable better collaborative working.

## **Social Work and Social Care**



**Q32.** What do you see as the main benefits in having social work planning, assessment, commissioning and accountability located within the National Care Service? (Please tick all that apply.)

- Better outcomes for service users and their families.
- More consistent delivery of services.
- Stronger leadership.
- More effective use of resources to carry out statutory duties.
- More effective use of resources to carry out therapeutic interventions and preventative services.
- Access to learning and development and career progression.
- Other benefits or opportunities, please explain below:

Social work and social workers make a distinctive contribution to multi-agency working which is essential to the delivery of health and social care. Social work is a profession with specific knowledge and skills, a strong values base, a commitment to social justice, and a focus on outcomes. Social workers are experienced in working in the most challenging and complex circumstances, skilled in balancing conflicting needs and views, and making professional judgements related to risk for both individuals and society. Effective social work promotes independence and resilience, empowering people to be involved and in control.

The Care Inspectorate sees the benefits of keeping all social work services together in the future and potential benefits of including these in the National Care Service. We see the importance of maintaining the integrity and cohesion of social work services throughout the life journey from early years to adult and older people's services. Any disaggregation of specialist social work services, in the creation of a National Care Service, even in terms of delayed timeframes for integration of some areas of services, would need careful consideration. We need to develop a comprehensive and shared understanding of all the issues involved.

We would welcome evidence from research, national and international, in relation to social work services being extensively integrated with health. If moving to wider inclusion of social work and other professionals, it will be important to look at evidence of what makes integration work to deliver better outcomes and build on this.

One of the key findings of our [joint inspections of adult services](#) and the [Audit Scotland reports](#) on [integration](#) was that the key to improved planning, commissioning, delivery of integrated care and support, and ultimately improved outcomes, was more about leadership capacity and collaboration between the leaders than the structures themselves. Integration authorities with relatively similar structures under The Public Bodies (Joint Working) (Scotland) Act 2014 were not equally effective in strategic planning and commissioning of health and social care services. ([Health and Social Care Integration: Update on Progress, Audit Scotland, 2018](#), [Joint Inspections of Adult Services 2017-21, Care Inspectorate](#))

Likewise, we are not aware of any validated research which shows that children and families experience better outcomes in areas of the country where children's services are the responsibility of an integration authority rather than a local authority. We have reported on high performance and performance which needs improvement in both local authority and IJB-led arrangements. The Care Inspectorate's inspection evidence has been able to link performance with effective leadership, but not with the structural arrangements in place in which that leadership is exercised.

Specific consideration needs to be given to the structures and support required for strong, effective professional leadership of social work at the highest levels and in sufficient numbers within the National Care Service and any local community health and social care partnership boards.

The Care Inspectorate sees the potential benefits of having social work placed within the National Care Service. This includes, in particular, the potential for more consistency in the delivery of services and more effective use of resources. Having social work, social care staff and key community health professionals working under a single organisation could impact positively on information sharing, support improved cooperation between health and social care professionals and better coordination of care and support. There could be improved opportunities to strengthen commitments to early intervention and prevention and to implementing the spirit and the legislative requirements of self-directed support. Within a National Care Service there would be the opportunity to give clear messages about priorities and available care and support and to share the responsibility for finding solutions to complex health and social care issues.

While we agree that social work must have strong connectivity to social care, we are equally clear that planning, assessment, commissioning and accountability for social work also needs to be closely linked to local communities and key services such as education and housing. As the thinking about social care evolves, it is essential to think about where and how social work fits with social care and to understand the value that social work will add to this. We would be keen to engage in a more detailed exploration of the benefits and risks of social work being included in the National Care Service.

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

The Care Inspectorate is keen to ensure that the role and value of social work knowledge, skills and expertise is widely understood and appreciated. We do not believe this is evident in the consultation. The role of social work beyond brokerage, care coordination and some key statutory responsibilities needs to be better reflected before consideration can be given to including social work planning, assessment, commissioning, and accountability within the National Care Service. We would wish to see a broader reflection of the breadth and depth of role of social work as an agent of change for individuals and communities and social work working with and managing real complexity and risk. The National Care Service as currently proposed, with Community Health and Social Care Boards, includes significant elements of health. Having social work in the National Care Service without a proper shared understanding of the value of social work in this arena ironically runs the risk of social work becoming the poor relation to health within a National Care Service. Without understanding of the value of social work there could be a risk that, within

the National Care Service, social work skills, knowledge and expertise would be diluted over time.

The role of social work and the leadership of the profession within the National Care Service would need to be considered comprehensively for it to be included within the scope. Without this social work may not be given its due parity to health within a National Care Service.

Our evidence from inspection activity makes a clear link between leadership of social work, social care and health and the quality of social work, social care and health services delivered in practice. The leadership, governance and quality assurance of social work would need to be explicitly and clearly defined and have parity with health within any National Care Service structure. Furthermore, it is important that the extent to which Scotland has recognised social work as a profession to date is not diminished under new arrangements. This protection is reflected by, for example, the critical role of the Chief Social Work Officer within local authorities and the role of the Chief Social Work Adviser in Scottish Government.

It is critical that full consideration is given to where and how social work fits within or connects to the National Care Service and this must always retain a focus on the person and improving personal outcomes. It is important to retain the spirit of the independent review of adult social care. With its focus on people, rights and empowerment, the review was aspirational about the person and the recommendations heralded major improvements in social care for people with lived experience and for the workforce. The Care Inspectorate wishes to see a National Care Service that is able to deliver an agile and flexible system that is focussed on the person. Careful consideration should be given to achieving this.

It will also be important that in any development of a National Care Service, we do not lose sight of the issues and impetus to address the pressing workforce, commissioning and quality of care issues in social care, to improve the quality and consistency in the delivery of personalised services to build sustainable services for the future.

## Nursing

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

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

Please say why

Assuring and improving the safety and quality of care provided in social care should follow a partnership approach; no one single factor supports it alone. There need to be clear definitions around leadership and lines of responsibility, accountability and governance.

We recognise the role and input from Executive Directors of Nursing alongside effective leadership and management by the providers of services and the further oversight provided by health and social care partnerships and local authorities, including the important role of the Chief Social Work Officer.

It is also important that acknowledgement is made of the different cultures across health and social care.

We acknowledge that when social care is provided in care homes or in people's own homes, it is essential to achieve a balance between an individual's care needs, their clinical needs and their rights. It is also important to recognise the distinct environment of a social care setting. People experiencing care must be able to choose and access the right care whenever they need it from the right professional to support all their health, care and wellbeing needs and to enable them to live life well.

The Care Inspectorate firmly believes that any changes need to be about getting it right for every person experiencing care, in line with the Health and Social Care Standards.

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

- Yes
- No, it should be the responsibility of the NHS
- No, it should be the responsibility of the care provider

Please say why

It would be helpful to explore the role that the National Care Service could play in overseeing education and professional development, standards of care and governance, alongside the Nursing and Midwifery Council. It is critically important that social care nursing is seen as equal to nursing in other health settings. The role of nursing and of any other professional providing care within a social care setting should be valued in the same way as they would in any other setting.

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

- Yes

No

If no, please suggest alternatives

As above, answer to Q31.

## Justice Social Work

**Q37.** Do you think justice social work services should become part of the National Care Service (along with social work more broadly)?

Yes

No

Please say why.

On balance, the Care Inspectorate view is that if other social work services are included in the National Care Service, justice services should also be included. However we would welcome more detailed consideration of this area. If included, justice services would require clear leadership of the service within the National Care Service by senior management with specialist knowledge and expertise in this area of practice, to ensure appropriate leadership within the service and connectivity with other services in justice.

There are very clear arguments for and against including justice social work in the National Care Service. The arguments against centre on the specialist nature of justice services and the risk that justice would be lost as a small service within a wider generic health and social care agenda. The arguments for inclusion centre on the view that justice social work is first and foremost a social work service and that people in the justice service are members of families and have both health and social care needs.

Previous consultations have decided against a move to a national arrangement and acknowledged there were strengths in justice social work remaining under the responsibility of local authorities. A new model for community justice came into effect in 2017. As a scrutiny body we have had a focus on justice specific matters for less than three years (dating from the formation of the strategic team in 2018) so we have a limited evidence base on how justice social work and Community Justice Partnerships are performing and delivering.

**Q38.** If yes, should this happen at the same time as all other social work services or should justice social work be incorporated into the National Care Service at a later stage?

At the same time

At a later stage

Please say why.

The Care Inspectorate's view is that if social work services are to be included in the National Care Service, then justice social work should be included from the outset. If it is included, it needs to be there from the beginning so that it can be considered

along with all other services in the planning and development of the leadership, management and governance arrangements, as these are being configured for the National Care Service.

All social work services are intrinsically linked and require collective consideration in relation to planning and development of overall leadership, professional oversight, governance arrangements and performance reporting. Staff recruitment and retention issues also need to be carefully considered so that any configuration of the National Care Service supports social work qualified staff to operate across all social work specialisms.

**Q39.** What opportunities and benefits do you think could come from justice social work being part of the National Care Service? (Tick all that apply)

- More consistent delivery of justice social work services
- Stronger leadership of justice social work
- Better outcomes for service users
- More efficient use of resources
- Other opportunities or benefits - please explain

There are opportunities for the delivery of improved access to health and social care services and potentially improved outcomes for individuals, if inclusion in the National Care Service leads to shared ownership and commitment by National Care Service partners to address the health and social care needs of people in the justice system. However, there can be no assumption that this would be the case. The creation of a National Care Service will not in itself result in greater collaboration between the different areas of service.

**Q40.** What risks or challenges do you think could come from justice social work being part of the National Care Service? (Tick all that apply)

- Poorer delivery of justice social work services.
- Weaker leadership of justice social work.
- Worse outcomes for service users.
- Less efficient use of resources.
- Other risks or challenges - please explain:

All of the risks above and more may occur if there is insufficient priority given to justice social work within the National Care Service. We would also highlight a dilution of specialist knowledge and skills for staff and managers, as well as a loss of connectivity to other areas of justice and local communities, as potential risks. There are elements of justice social work which work very well but which are not widely understood, such as Multi-Agency Public Protection Arrangements (MAPPA),

currently led by local authorities, and there may be unintended consequences to restructuring systems, particularly in relation to public protection.

Reoffending rates in Scotland are at the lowest level in over two decades, while reconviction rates of individuals who have completed a Community Payback Order are very favourable compared to those for people who have served short prison sentences. It is important that a move to a National Care Service leads to improvement and does not impact, or divert attention from, the progress being made and the need for wider reform of the penal and criminal justice systems.

**Q41.** Do you think any of the following alternative reforms should be explored to improve the delivery of community justice services in Scotland? (Tick all that apply)

- Maintaining the current structure (with local authorities having responsibility for delivery of community justice services) but improving the availability and consistency of services across Scotland.
- Establishing a national justice social work service/agency with responsibility for delivery of community justice services.
- Adopting a hybrid model comprising a national justice social work service with regional/local offices having some delegated responsibility for delivery.
- Retaining local authority responsibility for the delivery of community justice services, but establishing a body under local authority control to ensure consistency of approach and availability across Scotland.
- Establishing a national body that focuses on prevention of offending (including through exploring the adoption of a public health approach).
- No reforms at all.
- Another reform – please explain:

All options are worthy of further consideration so that the future of justice social work can be secured in the longer term, in order to fulfil its potential in contributing to improvements in the lives of individuals and communities affected by offending.

There are key reforms that we would like to see considered, irrespective of how justice services are configured, and these need to be considered as part of the decision making regarding the future fit and structure for justice social work services.

Maintaining the current structure would be dependent on where other elements of social work are situated. Our view is that there should be no disaggregation of social work services.

To date, justice social work inspection reports have highlighted the importance of strong leadership and clear strategic ownership of justice social work in delivering positive performance. Within current, ring-fenced funding arrangements, there are

opportunities for timely responses to meet local needs which support innovative partnership working with often small, third sector partners.

In any national justice social work service, it would be important to ensure that effective local practice and connectivity with other social work services is not diluted. We also note that The Promise calls for greater alignment of social work services to meet the needs of children, young people and parents/carers. It is important that justice social work has a strong profile and greater voice in influencing, shaping and informing policy and practice developments.

There is a need for a more coherent and consistent approach to delivering improvement across justice social work to give clarity in terms of who is responsible for leading on improvement, with non-departmental public bodies such as Community Justice Scotland, the Risk Management Authority and the Care Inspectorate having various responsibilities to support improvement within legislation.

In its Future Options work, Social Work Scotland has highlighted the usefulness of organisations such as CELCIS and the Children and Young People's Centre for Justice in supporting sector wide innovation and improvement, and suggests a similar arrangement for justice social work. We feel there is value in exploring such an option as a means of further strengthening the sector and supporting continuous improvement, which could be assured through independent scrutiny.

National Outcomes and Standards are well placed to support consistent practice and offer a useful framework for scrutiny and improvement, but they have become dated and less relevant in relation to practice. The Care Inspectorate is encouraged by the recent announcement that the Scottish Government, via the professional advisors in the Office of the Chief Social Work Adviser, will now have ownership of, and responsibility for, updating and renewing these standards. Maintaining currency will improve their value to day-to-day practice.

In our scrutiny activities we have highlighted a need for more robust and consistent performance reporting. While justice social work services report on a wide range of quantitative measures, more needs to be done to identify a manageable number of meaningful, qualitative measures to better demonstrate the difference justice social work services make to the lives of individuals, families and communities, including victims. Variability has also been noted in terms of investment in digital infrastructure, governance arrangements and access to services which support desistance from offending.

Training and development needs are largely planned and delivered nationally. However, during scrutiny activities we have identified variability with the current arrangements and the need for a more coherent strategy and delivery plan to ensure the justice social work workforce can access training opportunities as and when required. We suggest there is a need for a strategic approach to workforce development via a national training pathway.

**Q42.** Should community justice partnerships be aligned under Community Health and Social Care Boards (as reformed by the National Care Service) on a consistent basis?



Yes

No

Please say why.

The justice agenda and connections are broader than health and social care and require engagement from all community-based partners. While alignment of Community Justice Partnerships (CJPs) and proposed Community Health and Social Care Boards may be desirable, this would require even further structural change than is currently proposed and would not necessarily deliver improved outcomes for people. Arrangements are already variable and not all CJPs are co-terminus with their Health Board/Police Scotland partners.

The Scottish Government is currently consulting on the future community justice strategy. Arrangements are still relatively new, as is the Care Inspectorate's scrutiny and assurance of justice social work, so consideration needs to be given as to how the CJPs are performing as currently configured. The accompanying Outcome, Performance and Improvement Framework (OPIF) is currently undergoing significant redesign with a view to enabling more consistent and meaningful reporting on the differences partnerships make in the lives of individuals and communities affected by offending.

To date, the Care Inspectorate's focus has been on supporting self-evaluation. We have found that partnerships are committed to delivering services collaboratively and comprehensive needs assessments were helping to gain a more complete picture of local need to inform service delivery priorities and alignment of collective resources. Stable leadership and connectivity to wider community planning structures were also key to clarity of vision and direction. With this in mind, it is important that any progress is not impacted on, and it may be too early to consider restructuring and realignment.

## Prisons

**Q43.** Do you think that giving the National Care Service responsibility for social care services in prisons would improve outcomes for people in custody and those being released?

Yes

No

Please say why.

In principle, social care under the National Care Service should be social care for all, designed and delivered in line with each person's needs and wishes. Taking a personalised bespoke approach should result in better outcomes for people in custody and on release. This does not necessarily extend to support for a once-for-Scotland social care provision for prison social care as local links (including multidisciplinary links) and continuity of care and support for people being released

may be better achieved through more locally developed and delivered services. The details of the future design and delivery of social care in prisons needs to be informed by the findings of formal studies/reports commissioned to consider this specialist area of social care including the work of the Health and Social Care integration in prisons workstream.

Consideration also needs to be given to the role of prison based social work and its place in the National Care Service, alongside considerations about the inclusion of other social work services. This should involve a review of the purpose of the prison based social work role, links other community based social workers and health professionals, along with the capacity within prison based social work teams. A better understanding of what the overall social work ask is across prison services is also required to ensure needs of prisoners and their families are met while in prison and on release. [A New Vision for Social Care in Prison](#) makes a range of relevant recommendations in this regard.

**Q44.** Do you think that access to care and support in prisons should focus on an outcomes-based model as we propose for people in the community, while taking account of the complexities of providing support in prison?

Yes

No

Please say why.

The Care Inspectorate supports an outcomes-focused model in social care and believes that access to care and support in prisons should be as focused on outcomes as it should be in community settings. Delivering outcomes focused care and support is complex and challenging to achieve in any setting. Yet an outcomes-focused model ensures we remain focused on each person as an individual, on the things that are most important to the person, and seeks to support each person to reach their own potential. This is equally important to achieve for people in prison as it is for people in any other setting in the community.

The views and wishes of individuals are central to a human rights-based approach, and in delivering person-centred outcomes. They should therefore be promoted at every stage during a person's imprisonment and to ensure a successful, seamless reintegration to the community upon release. Prison-based social workers have a key role to play in this regard but this may be restricted due to the current model of commissioning, existing service level agreements and dated [National Objectives for Social Work Services in the Criminal Justice System: Standards – Throughcare](#). The Care Inspectorate welcomes the recent announcement that these standards are to be updated and maintained by professional advisors from the Office of the Chief Social Work Adviser. This offers a unique opportunity to modernise and update guidance to clarify the role of prison based social work in relation to social care.

## Alcohol and Drug Services

**Q45.** What are the benefits of planning services through Alcohol and Drug Partnerships? (Tick all that apply)

- Better co-ordination of Alcohol and Drug services
- Stronger leadership of Alcohol and Drug services
- Better outcomes for service users
- More efficient use of resources
- Other opportunities or benefits - please explain

The Alcohol and Drug Partnerships (ADPs) have made an impact on the approach to the planning and delivery of services. The Care Inspectorate in its work with ADPs in [2017](#) found evidence of a clear shift to a recovery focused philosophy in the planning, commissioning and delivery of services across the country, of innovation and person-centred delivery models, particularly a strength in the third sector and of innovative user involvement at individual, service and partnership level. Future considerations of how alcohol services are planned and delivered need to understand and build on what has worked well to date.

Given the high rate of drug-related deaths in Scotland, this is an area that requires sharp and immediate focus to drive collaboration and improvement and achieve meaningful reform focused on prevention.

**Q46.** What are the drawbacks of Alcohol and Drug Partnerships? (Tick all that apply)

- Confused leadership and accountability
- Poor outcomes for service users
- Less efficient use of resources
- Other drawbacks - please explain

The Care Inspectorate's report on ADPs in 2017 noted that further work was needed in some ADPs to make best use of shared resources, to effectively plan local strategic priorities and develop better commissioning approaches. These are challenges that are wider than ADPs and need to be considered as part of the consideration of the future design of drug and alcohol services.

**Q47.** Should the responsibilities of Alcohol and Drug Partnerships be integrated into the work of Community Health and Social Care Boards?

- Yes
- No

Please say why.

As noted previously (under Q32 above), the Care Inspectorate sees the benefits of keeping all social work services together in the future and potential benefits of including these in the National Care Service. We see the importance of maintaining the integrity and cohesion of social work services throughout the life journey. Any

disaggregation of specialist social work services, in the creation of a National Care Service, even in terms of delayed timeframes for integration of some areas of services, would need careful consideration.

While on balance we believe that social work services should be better integrated with social care services, further understanding of the implications for each area of service is required, including the potential for any unintended consequences. We need to develop a comprehensive and shared understanding of the issues involved for Alcohol and Drug Partnerships before any transfer of responsibilities to another structure.

We recognise the need to find a new way forward for alcohol and drug supports. However, we need to ensure that we understand what is working well and not well and build on this to inform decision making about the future of drug and alcohol services. With this in mind we believe that the remit and function of the ADPs should be reviewed.

Planning of alcohol and drug services cannot be done in isolation, and we recognise that these partnerships involve critical strategic partners such as the police and housing. Any structural arrangements should retain that wider strategic and collaborative focus, to ensure that all the required services work together to address the devastating impact of problematic drug and alcohol use on individuals, families and communities.

Structural arrangements should support multiagency strategic commissioning, which facilitates early intervention through to the timely delivery of complex packages of care to support people with complex needs and their families.

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

The Care Inspectorate firmly believes that services must be inclusive and focussed on outcomes. Many people still experience stigma and prejudice when accessing some alcohol and drug treatment and recovery services. More work is needed to ensure people are treated with dignity and respect and supported by staff with appropriate attitudes and values. The Care Inspectorate report of 2017: [Alcohol and Drug Partnerships: The use and impact of the Quality Principles – a validated self-assessment](#), noted that the third sector was leading the way in alcohol and drug services in innovation and person-centred service models. We need to understand and build on good practice examples from across health and social care provision to date. Supporting the argument for including alcohol and drug services along with other social work services, we further reported in 2017 that “Support needs to continue for joint working between staff in alcohol and drug services and staff in children’s services to ensure children and young people affected by substance misuse are protected”.

We need a greater focus on prevention and early intervention, have greater visibility of services provided in the community and perhaps provide more services online, and have greater visibility of services provided in the community. Services need to be better integrated into local communities and better health and drug education in

schools needs to take place, to make drug and alcohol recovery more socially acceptable. Consideration should be given to what services can be provided to people as and when they need them, including more social care support, better housing, more rehab and reduce dependency on prescribing services.

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

Yes

No

Please say why.

This could provide consistency of access and standards of treatment. However, there is a need to guard against this only working for people who are based near centres of population. People's social capital is really important, and this is likely to be enhanced by being close to families and communities.

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

- Rehabilitation, detoxification opportunities and counselling
- Support for securing housing and employment
- Support for families and carers
- Media campaign to see addictions as a need.

**Q51.** Are there other ways that alcohol and drug services could be planned and delivered to ensure that the rights of people with problematic substance use (alcohol or drugs) to access treatment, care and support are effectively implemented in services?

The Care Inspectorate believes that we need to understand problematic substance use in its whole social context in terms of the causes and solutions. We need to ensure planning has robust links to trauma informed practice, housing, justice services, access to learning and work opportunities, as well as other health and social care supports.

In 2017 the Care Inspectorate work with ADPs found that the majority of ADPs had a strategic commitment and strong aspiration to shift the balance of care from clinic-based provision to community provision that was holistic, person-centred and recovery focussed. The third sector was found to be leading the way in innovation and person-centred service models. The way in which some NHS and social work services were delivered needed to modernise to maximise efficient use of resources and to also ensure a person-centred approach. There were examples of innovative involvement of people with lived experience at individual service and partnership levels to proactively consult, engage and seek feedback. However, there was less evidence of how feedback is influencing service delivery models – hearing and building on the voice of people with lived experience is critical.

Those responsible for strategic planning and commissioning need to better understand what has worked well in drug and alcohol services and build on this.

## Mental Health Services

**Q52.** What elements of mental health care should be delivered from within a National Care Service? (Tick all that apply)

- Primary mental health services
- Child and Adolescent Mental Health Services
- Community mental health teams
- Crisis services
- Mental health officers
- Mental health link workers
- Other – please explain

As noted previously (under Q32 above), the Care Inspectorate sees the benefits of keeping all social work services together in the future and potential benefits of including these in the National Care Service. We see the importance of maintaining the integrity and cohesion of social work services across the journey from early years to adults/older peoples services. Any disaggregation of specialist social work services, in the creation of a National Care Service, including social work mental health services would need careful consideration.

While on balance we believe that social work services should be better integrated with social care services, there needs to be greater understanding of the implications for each area of service, including the potential for any unintended consequences of this. We need to develop a comprehensive and shared understanding of the issues involved for mental health services, including the links to acute in-patient services before any transfer of responsibilities into another structure.

Some older adults mental health inpatient services are delegated to IJBs, while other inpatient services and specialist community supports are within the NHS. This approach to service design can result in a disjointed approach to service delivery for individuals. Yet, to fully embed mental health services in either the NHS or National Care Service is not necessarily a perfect solution.

Thorough consideration of the role of Mental Health Officers is required, in particular how their autonomy and links with legal services would be maintained as part of the National Care Service. If Mental Health Officers are not part of wider mental health social work, there may be an exacerbation of longstanding recruitment and retention of these specialist roles. Community Mental Health Teams, crisis services, Mental Health Officers and mental health link workers are already (largely) delivered as services delegated to IJBs.

The Care Inspectorate, working with HIS, considered the strategic planning of mental health services in a number of partnerships as part of the joint inspections of the effectiveness of strategic planning. cWe [found evidence](#) of important strategic planning for integrated mental health services under a number of the existing

integration joint boards. Further exploration of available information relating to how mental health services have been developed, sustained and performed while delegated to integration joint boards would better inform considerations regarding the future of mental health services in the National Care Service.

We would also welcome further consideration of resourcing for mental health services and improvement in data sharing to ensure the appropriate services are provided at the right time to meet individual needs.

**Q53.** How should we ensure that whatever mental health care elements are in a National Care Service link effectively to other services e.g. NHS services?

We would welcome evidence from research, national and international, in relation to what works well and what has not worked well in mental health services across health and social care and acute and community services. This should help to inform the approach and configuration of services to ensure effective links across mental health services.

Clear information sharing protocols and potentially a functioning, integrated, recording/communication system within and between NHS and the National Care Service would be one solution to this. This would require significant investment of time and resources across acute and community services.

Services should be seamless to the individual and recognise the *whole* person. There should be no barriers and ideally no waiting times between social work and health inputs. To realise the best outcomes for individuals, services require to be delivered collaboratively. This may require colocation of all, not just frontline services.

There also needs to be joint planning and commissioning for acute and community mental health services, including workforce planning, to ensure a whole system approach to health and social care considerations.

## National Social Work Agency

**Q54.** What benefits do you think there would be in establishing a National Social Work Agency? (Tick all that apply)

- Raising the status of social work
- Improving training and continuous professional development
- Supporting workforce planning
- Other – please explain

The Care Inspectorate hopes that the creation of a National Social Work Agency would promote the value of social work and support improvements in learning and development opportunities for social workers and social work managers. This should attract more entrants to the profession and improve retention.

The Care Inspectorate welcomes recognition of the unique task of social work, which is very closely allied, but not synonymous, with social care. It is hoped that understanding of the significant role played by social workers and the value which should be accorded to social work, would be enhanced by the creation of a National Social Work Agency, in the new National Care Service itself, as well as in Scottish Government and with the wider public.

We would expect social work and social care to be valued and represented at all levels of the National Care Service, with the National Social Work Agency being in addition to, not instead of, this representation and able to consolidate and progress the work that a number of other agencies have been doing to date.

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

We note above the need to view social work as an integral part at every level of the National Care Service, to ensure its profile and value is sufficiently highly regarded.

The consultation document identifies that there is currently no single body with the responsibility and authority to oversee and support the capacity and development of the social work workforce. Nonetheless there is recognition that the functions planned for the new National Social Work Agency to assume are currently undertaken by a number of different organisations and public bodies. The Care Inspectorate would highlight the valuable work done over many years by these bodies, and would hope that the creation of a national agency would seek to incorporate and build on the work done. For example, we would be keen to see the SSSC maintaining its role around standards of education and training.

The Care Inspectorate considers it essential that there is clarity about the role and parameters of any new agency, while it is important to ensure that the independent scrutiny role of the Care Inspectorate is not duplicated. There should also be clarity about the role of the Chief Social Work Advisor to Scottish Government and how this role relates to the National Care Service.

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

Yes – on balance yes, but caveats below

No

Please say why

The Care Inspectorate agrees that there is an urgent need to raise the profile and status of social work as an attractive career choice. Establishing a National Social Work Agency within the National Care Service would maintain the connection between social work and social care. However, care must be taken to establish it well and ensure it is easy for social workers to navigate.

If the National Social Work Agency is to play a role in overseeing and supporting the development of the workforce needed to meet the country's social care needs, sitting



within the National Care Service would be helpful. However, it would be essential for the agency to have independence to successfully promote social work.

We note recommendation 45 from the Independent Review of Adult Social Care and particularly the reference to adult social care support. A National Social Work Agency would need to represent social work services across all activity across the life journey.

**Q57.** Which of the following do you think that a National Social Work Agency should have a role in leading on? (Tick all that apply)

- Social work education, including practice learning
- National framework for learning and professional development, including advanced practice
- Setting a national approach to terms and conditions, including pay
- Workforce planning
- Social work improvement
- A centre of excellence for applied research for social work
- Other – please explain

In terms of the role of a National Social Work Agency in workforce planning, please note the comments above about the need for there to be understanding about the type and nature of the workforce, and social work tasks across different areas of social work and social care, including services for children and justice services, and addiction services where integrated services have been embedded for longer.

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

### **Governance model**

**Q58.** “One model of integration... should be used throughout the country.” ([Independent Review of Adult Social Care](#), p43). Do you agree that the Community Health and Social Care Boards should be the sole model for local delivery of community health and social care in Scotland?

- Yes
- No

Please say why.

We acknowledge the need for review and reform of the IJBs and, in particular, the need to support better funding arrangements and clearer accountability and governance in the planning and delivery of health and social care services under integration.

In our [joint inspections of the effectiveness of strategic planning](#), we found clear evidence that partnerships were progressing integration across health and social care settings particularly where a positive culture of collaborative leadership existed. The scale of transformation required and the very challenging financial context in which IJBs have been operating has meant progress has been inevitably slow. In relative terms, the structural reforms under the Public Bodies (Joint Working) (Scotland) Act 2014 are still relatively new, particularly given the shift of focus for IJBs since March 2019 on responding to the Covid-19 pandemic.

Further restructure as proposed will take significant time, energy and resources to develop. We believe that the key to improved health and social care delivery is to ensure there is a focus of time, effort and resources on the dimensions that contribute to effective delivery across health and social care at the local level, including culture, leadership and a focus on outcomes for individuals. ([Integration of health and social care, IRISS Insight 14, 2012](#)). We would welcome available evidence from research, national and international, that has informed the proposed changes in structure and accountability to support improved service planning, delivery and outcomes in health and social care.

Developing relationships across local authorities and health boards with a focus on the best outcomes for people is central to the effective delivery of community health and social care.

**Q59.** Do you agree that the Community Health and Social Care Boards should be aligned with local authority boundaries unless agreed otherwise at local level?

- Yes
- No

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

Local authorities have established links with and accountability to local communities - these need to be central to planning services with people and local communities, regardless of the chosen model of operation. Consideration should also be given to an enhanced role for the third sector.

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

Potentially, yes. The remit, composition, and functions of adult protection committees essentially reflect the duties for councils pursuant to the Adult Support and Protection (Scotland) Act 2007. Shifting all resource, accountability and governance for health and social care across children, adult and justice services would need careful consideration of the impact on the full public protection agenda.

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

**Q62.** The Community Health and Social Care Boards will have members that will represent the local population, including people with lived and living experience and carers, and will include professional group representatives as well as local elected members. Who else should be represented on the Community Health and Social Care Boards?

If the remit of these boards is extended to all areas of scope (children's services, justice, social care in prisons etc), these boards even with representation in line with existing membership will be relatively large groups, so any extension to the core membership would need careful consideration. Having a meaningful voice from people with lived experience in these boards will be essential.

**Q63.** "Every member of the Integration Joint Board should have a vote" ([Independent Review of Adult Social Care](#), p52). Should all Community Health and Social Care Boards members have voting rights?

Yes

No

**Q64.** Are there other changes that should be made to the membership of Community Health and Social Care Boards to improve the experience of service users?

It is important that people with lived experience and carers are properly supported to participate meaningfully - improvement in communication and additional support for communication where required will be key to this. The ability to give written submissions/evidence where necessary to inform discussion and decision making is also recommended.

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

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

Yes

No

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

### **Commissioning of services**

#### **Structure of Standards and Processes**

**Q67.** Do you agree that the National Care Service should be responsible for the development of a Structure of Standards and Processes

Yes

No

If no, who should be responsible for this?

Community Health and Social Care Boards

Scotland Excel

Scottish Government Procurement

NHS National Procurement

A framework of standards and processes is not needed

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

Yes

No

Yes, if properly developed to include a focus on rights and outcomes.

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

Yes

No

Yes, if properly developed to include a focus on relevant standards, terms and conditions and support for staff

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

The involvement of people with lived experience is critical in developing the structure of standards and processes, and within the commissioning process.

The Care Inspectorate welcomes a clear shift to ethical and collaborative commissioning where there is a clear person-centred focus with sufficient resources. We firmly believe that commissioning considerations cannot be separated from other elements of the National Care Service consultation, including a focus on human rights, delivering positive personal outcomes, fair working practices and pay, parity of esteem for social care staff, regulation, funding and workforce.

We believe the national Health and Social Care Standards should be explicit within the proposed National Care Service structure of standards and processes. The Health and Social Care Standards are focused on human rights and personal outcomes and were developed following extensive engagement and are particularly informed by people with lived experience. The proposed structure of standards should be compatible with and aligned with these agreed Standards.

There is also a need to ensure that the structure of standards and processes and associated commissioning and procurement approaches are simple, clear and understandable to ensure consistency of approach and implementation. Standards will only be effective if they are accompanied by regulation and a requirement to report performance publicly.

Ethical and collaborative commissioning needs to encompass collaborative working between practitioners and providers to plan care and deliver personal outcomes, as well as strategic collaboration on procurement and market facilitation to ensure that the right services are available. Data on unmet need should inform strategic commissioning.

We would like to see a requirement to promote innovation as well as building on the lessons learned from existing good practice added. There needs to be a greater emphasis on the importance of balancing consistency at the national level with the importance of a local understanding of context, need and geography for all services, including those for complex and specialist services.

### **Market research and analysis**

**Q71.** Do you agree that the National Care Service should be responsible for market research and analysis?

- Yes  
 No

If no, who should be responsible for this?

- Community Health and Social Care Boards  
 Care Inspectorate  
 Scottish Social Services Council  
 NHS National Procurement  
 Scotland Excel  
 No one  
 Other- please comment

This market research and analysis should be informed by intelligence and information held by other organisations and should ensure the voice of people across different communities of interest, as well as geographical spread are heard.

### **National commissioning and procurement services**

**Q72.** Do you agree that there will be direct benefits for people in moving the complex and specialist services as set out to national contracts managed by the National Care Service?

Yes

No

If no, who should be responsible for this?

Community Health and Social Care Boards

NHS National Procurement

Scotland Excel

## Regulation

### Core principles for regulation and scrutiny

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

The Care Inspectorate fully supports the proposal that scrutiny functions would be independent of the National Care Service. We would wish to see this included as a key principle, linked perhaps to the knowledge and skills required for the role - that scrutiny is independent and delivered by professional staff with the relevant skills, knowledge and experience.

We welcome the inclusion of core principles for scrutiny and assurance activity. Incorporating principles that are focused on human rights, on outcomes and on amplifying the voice of people with lived experience are welcome.

We would wish to see explicit reference to the Health and Social Care Standards. The national Health and Social Care Standards are focused on human rights, experiences and outcomes. These standards are underpinned by five key principles: dignity and respect, compassion, be included, responsive care, and support and wellbeing, which we would also wish to see reflected in the scrutiny principles.

We also highlight the principles set out by Crerar in the report of the independent review of regulation, audit, inspection and complaints handling of public services in Scotland (2007): public focus; independence; proportionality; transparency; and accountability.

We particularly welcome recognition of the importance of scrutiny being targeted, proportionate, intelligence-led and risk-based. We also agree that scrutiny should be focused on evaluating the outcomes for people and the difference services are making to their lives, including the relationship staff have with them. We would like to see the reference to evaluating people's experiences as well as outcomes. We also think it is important to reference the Scottish Regulators' Strategic Code.

We would welcome a reference to promoting self-evaluation for improvement by services. A number of years ago, all the scrutiny bodies under the umbrella of the Audit Scotland led Strategic Scrutiny Group, agreed to promote self-evaluation and

take account of this in their scrutiny approaches, principally through a commitment to demonstrating proportionality in scrutiny if the services / partnership's self-evaluation was robust and evidence-based.

We also think it is important to include specific mention of improvement as part of the principles or role of regulators. Our relationship with services, the quality of our interventions and the improved outcomes in some areas, has been achieved by the dual role of scrutiny and improvement. Feedback from providers consistently tells us that providers appreciate a proportionate, balanced, improvement focused approach. Compared with previous approaches providers recognise our current approach to be more effective. The Care Inspectorate would therefore wish to see a clearer focus on improvement to include a principle about scrutiny and assurance that supports improvement through collaborative approaches and professional dialogue.

We would wish to see the Care Inspectorate's role in taking action where services are of a poor quality and particularly where people are not considered to be safe, recognised within the principles - a reference to taking robust action where there is a risk to the safety and wellbeing of people would seem appropriate.

We would also like to see innovation referenced along with good practice.

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

Principle 3: As written, this does not seem to fit in a section on independent scrutiny and regulation and confuses the role of independent regulators in relation to improvement of services with that of a National Care Service.

Principle 5: The reference to the pandemic here is too narrow a view of learning from good practice - this should be about lessons learned and good practice more broadly.

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

We would like to see the principles written with a clearer focus on the person, human rights, involvement and outcomes. The principles would benefit from being reframed into the language of rules and beliefs that guide scrutiny, assurance and improvement activity.

The language needs to be strengthened and made more decisive across the principles to reflect a real commitment to each. For example, regulators should include the views of people experiencing care, and we do so – a principle relating to amplifying the voice of people with lived experience should reflect a clear commitment to this. Principle 10 should be written more definitively and given greater prominence.

Similarly, regulators take account of legislation, policy and standards. Again, this is at the heart of our work and so "where possible" should be removed.

## **Strengthening regulation and scrutiny of care services**

**Q76.** Do you agree with the proposals outlined for additional powers for the regulator in respect of condition notices, improvement notices and cancellation of social care services?

- Yes  
 No  
 Please say why.

The Care Inspectorate currently has a range of powers, set out in legislation, to enable us to act when services fail to provide the quality of care that is required. We strongly support the proposed enhancement of our enforcement powers to allow us to act more quickly where registered care services fall short, and take swift action where steps are needed to improve outcomes for vulnerable people or protect them from the risk of harm. Strengthening our existing powers will ensure that people experiencing care and their families are assured that the regulator has the most effective powers that can be deployed as quickly as possible when they are required.

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

As we have stated above, we welcome the proposed enhancements to powers of enforcement. We are strongly supportive of any measures that enable actions designed to protect vulnerable people against the risks associated with poor care to be as effective as they can be, and which support swift action. While we support the enhancements proposed in respect of enforcement powers, there is an opportunity, which should not be missed, to consider the regulatory regime as set out in statute more generally with a view to holistic reform. For example, addressing issues with registration arrangements may reduce the need for enforcement action “downstream”. We would suggest that consideration is given as to whether arrangements for registration of care services should be more stringent or prescriptive, including in relation to the “fitness” of applicants.

Consideration should be given to arrangements to address the lack of transparency sometimes encountered as to the true ownership of care services, whether prospective or registered, and to the relative ease with which new companies (often in the same ownership as existing providers) can take over care services, unencumbered by a poor regulatory history. While registration of care services and their regulation currently takes place at “service” level, consideration should be given as to whether some aspects of regulation should be capable of taking place at “provider” level, where a provider operates more than one registered care service.

Returning to matters related specifically to enforcement, we would suggest that, additionally, consideration is given to how enforcement action and in particular, Improvement Notices might be capable of enhancement to require not only improvement, but sustained improvement. Often, individual care services are the subject of repeated Improvement Notices, improving only by enough to achieve basic compliance before again falling below acceptable standards. One option might be that even after compliance, such notices remained on the care service’s “record” for a prescribed period of time, so that in the event of further, similar, failures, the regulator might move straight to proposing to cancel registration without first issuing a further Improvement Notice.



## Market oversight function

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

Yes

No

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

Large providers only

All providers

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

Yes

No

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

Yes

No

**Q82.** Should the regulator be empowered to inspect providers of social care as a whole, as well as specific social care services?

Yes

No

Please say why

If providers are not inspected, then there will be a critical blind spot.

### Additional comments:

The Care Inspectorate is extremely well placed to take on the market oversight role and would welcome responsibility for it. In the past eighteen months, we have undertaken considerable work to develop proposals for how it would work and how we ensure that it is linked to the social care intelligence that we gather through our scrutiny and improvement work. We also note our experience in undertaking strategic scrutiny and its potential usefulness in this regard.

Our business model, which underpins the delivery of our corporate plan, depends on us developing a risk-based, intelligence-led, targeted and proportionate approach to scrutiny, assurance and improvement support. Finance impacts on every stage of a person's care delivery from the strategic level to the operational point of delivery. Developing a market oversight role will enable us to evaluate its impact on peoples' care and target improvement and we therefore believe that it should consider all registered care services and all bodies corporate that are engaged in activities associated with the provision of social care.

Market oversight will necessitate legislation to require registered services and providers to supply corporate information to the Care Inspectorate. We would therefore welcome more discussion with the Scottish Government on the shape and creation of the wider aspects of market oversight.

## **Enhanced powers for regulating care workers and professional standards**

**Q83.** Would the regulator's role be improved by strengthening the codes of practice to compel employers to adhere to the codes of practice, and to implement sanctions resulting from fitness to practise hearings?

To date the Care Inspectorate's regulatory and inspection activity focuses on the quality of care being experienced by individuals in services. With the Health and Social Care Standards and the Fair Work programme, there has been increasing recognition of the relationship between how well an employer recruits and professionally supports staff, and the quality of care they provide. We would support, in general, strengthening the codes of practice.

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

Yes.

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

Under the Public Services Reform (Scotland) Act 2010, the Care Inspectorate has a statutory Duty of Co-operation, which requires us to collaborate closely with scrutiny and improvement bodies and national policy makers. We work particularly closely with Education Scotland, Healthcare Improvement Scotland, HM Inspectorate of Constabulary in Scotland and the Mental Welfare Commission. We have a close relationship with the Scottish Social Services Council which allows us to work together efficiently and effectively.

We firmly believe that we should continue to strengthen our joint work with the workforce regulator. Further co-production of quality improvement approaches and good practice interventions and improvement support resources would support staff and services to raise standards of care more effectively.

We will continue to work with the SSSC and key partners to support and develop a skilled, valued and confident social care workforce.

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

The Care Inspectorate suggests that the registration of adult daycare workers and personal assistants should be explored in line with other groups of adult care workers.

Any individual who is responsible for managing a care service should have the appropriate competencies, skills, qualifications and experience commensurate with the role.

## Valuing people who work in social care

### Fair Work

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

Yes

No

Please say why.

The Care Inspectorate strongly supports the Fair Work principles and any mechanism that will allow the sector to experience fair work.

**Q88.** What do you think would make social care workers feel more valued in their role? (Please rank as many as you want of the following in order of importance, e.g. 1, 2, 3...)

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

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

Please explain suggestions for the “Other” option in the below box

It is important to note that working in social care is extremely challenging. Staff are working with the most vulnerable individuals in our society, most of whom require complex care, often in isolation and in the person’s own home.

There is a high level of training and professionalism required. We believe that an understanding of the role and value of social care, providing equal value to colleagues working within the NHS, is crucial to making a difference to how social workers feel valued in their role and by society more widely. We support any initiative or policy that seeks to improve how valued social care workers feel and, particularly in the context of the pandemic experience, any proposals to support and improve the health and wellbeing of social care staff. For example, colleagues from the Care Inspectorate are involved in the Health and Social Care Workforce Wellbeing and Mental Health Oversight Group and delivery groups. We are able to disseminate wellbeing resources through our provider updates and have supported and contributed to wellbeing webinars to support the workforce.

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

	Improved pay
	Improved terms and conditions
	Improving access to training and development opportunities to support people in this role (for example time, to complete these)

	Increasing awareness of, and opportunity to complete formal accreditation and qualifications to support people in this role
	Other (please explain)

Please explain suggestions for the “Other” option in the below box

As with question 88, we have chosen not to provide a ranking, however, in broad terms we know that there is increasing recognition of the relationship between how well an employer professionally supports staff and the quality of care they provide.

**Q90.** Should the National Care Service establish a national forum with workforce representation, employers, Community Health and Social Care Boards to advise it on workforce priorities, terms and conditions and collective bargaining?

- Yes  
 No

Please say why or offer alternative suggestions

We believe that good communication and engagement is crucial to having a supported and valued workforce and would support any initiatives that would achieve this.

## Workforce planning

**Q91.** What would make it easier to plan for workforce across the social care sector? (Please tick all that apply.)

- A national approach to workforce planning  
 Consistent use of an agreed workforce planning methodology  
 An agreed national data set  
 National workforce planning tool(s)  
 A national workforce planning framework  
 Development and introduction of specific workforce planning capacity  
 Workforce planning skills development for relevant staff in social care  
 Something else (please explain below)

The pandemic has demonstrated the interdependency of all parts of the care and health systems. During the public health crisis, the benefits of a national approach to staffing in order to meet people’s needs in a dynamic employment market have been highlighted. It has become apparent that there is a need for some central oversight of all sectors and the ability to respond flexibly to address shortfalls on a temporary and longer-term basis. A standardised approach to training may also be worth

considering. However, it is also important to highlight that there needs to be flexibility within the system as sometimes a local approach is required to address local issues.

We also know that workforce recruitment and retention is crucial to workforce planning. This is an issue within the social care workforce, particularly due to the impact of the UK's exit from the European Union. There is work ongoing in this regard and any proposals should make it easier to plan for a sustainable workforce and reduce the high levels of vacancies and turnover.

## Training and Development

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

Yes

No

Please say why

A well trained, skilled, supported and valued workforce is crucial to people experiencing good care and outcomes, and the Care Inspectorate would support any proposals or initiatives that help to achieve this, as well as any increased opportunities for care staff to access support to help them advance their continuing professional development, including advanced qualifications.

Currently professional regulators such as the SSSC, NMC, GTC and HCPC play an important role in routinely setting qualification, training and development standards and increasingly combine fitness to practice regulation with promoting good practice, learning and development.

**Q93.** Do you agree that the National Care Service should be able to provide and or secure the provision of training and development for the social care workforce?

Yes

No

## Personal Assistants

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

Yes

No

Please say why.

The self-directed support legislation marked a radical departure in how care and support has been arranged and provided, with people experiencing care controlling decision making. Power was transferred directly to individuals from professionals planning, commissioning, providing and regulating care and support. By choosing to receive a direct payment, individuals are empowered to employ their own personal assistant to provide care at a time suited to their needs.

Prior to the passage of the legislation and since, there has been much discussion on the role of personal assistants and whether they should be registered in the same way as other social care workers. The Care Inspectorate recognises that there are conflicting views on this.

We fully support the ethos and principles of self-directed support, in keeping with the Health and Social Care Standards, and believe it is most important that people are supported to make good, informed choices with regards to their care. Local authorities and health and social care partnerships supporting a person to obtain Option 1 and employ a personal assistant should give advice and guidance about practical issues such as safe recruitment, PVG checks, training, the need for insurance and a duty to ensure that public money is spent appropriately.

There is a case to explore whether personal assistants should be regulated to add further protections to the way this section of the workforce operates.

**Q95.** What types of additional support might be helpful to personal assistants and people considering employing personal assistants? (Please tick all that apply)

- National minimum employment standards for the personal assistant employer
- Promotion of the profession of social care personal assistants
- Regional Networks of banks matching personal assistants and available work
- Career progression pathway for personal assistants
- Recognition of the personal assistant profession as part of the social care workforce and for their voice to be part of any eventual national forum to advise the National Care Service on workforce priorities
- A free national self-directed support advice helpline

- The provision of resilient payroll services to support the personal assistant's employer as part of their Self-directed Support Option 1 package
- Other (please explain)

The Care Inspectorate would support any proposals that helped people to identify and achieve their personal outcomes, allowing them to experience choice and have control over the care they receive.

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

- Yes
- No

The Care Inspectorate broadly agrees that personal assistants should be able to access a range of training and development opportunities, which would support them in the care they provide. In 2019 we published [Thematic review of self-directed support in Scotland: Transforming lives](#). The review, led jointly with Healthcare Improvement Scotland, considered the delivery of self-directed support in six partnerships across Scotland to evaluate how well they had embedded the principles and values of self-directed support to deliver better outcomes for supported people.

In this we concluded that knowledge, confidence and skill levels of personal assistants in relation to self-directed support was an issue for all partnerships to consider. Enabling personal assistants to access a range of training and development opportunities would therefore seem important.



## National Care Service (Scotland) Bill - Call for evidence

### Organisation details

The Care Inspectorate is the independent scrutiny and improvement support body for social care, social work and early learning and childcare services in Scotland. We are committed providing public assurance in the quality of care and support delivered by individual services, health and social care partnerships and across local communities.

All social care services in Scotland, including early learning and childcare, must be registered with us. We inspect these services, reporting on performance and identifying improvements they need to make. We have powers to enforce change where it is needed. We also investigate and resolve complaints about services.

We take an intelligence-led, risk-based and targeted approach to scrutiny, assurance, and quality improvement support. We rigorously monitor services, gathering and analysing intelligence, which helps to target our approaches effectively and efficiently, as well as helping to shape and influence local and national policy and practice.

Our expert workforce provides scrutiny and support for quality improvement to services every day, sharing information, guidance and good practice to deliver sustainable improvements that lead to high-quality care. Working with our colleagues in social care, social work, healthcare, and education, we are committed to the health and wellbeing of those experiencing care, support and early learning services.

We place human rights and the Health and Social Care Standards at the heart of all that we do so that services and communities are safe places for people to live well and flourish, with their rights, needs and choices respected. Involving people who experience care in our work is essential to inform, influence and improve what we do. We keep equality and diversity central to all we do as we continue to embed our duties of assurance, furthering quality improvement, and involvement.

### 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?**

As the official body responsible for inspecting standards of social work and social care, including early learning and childcare (ELC) services, in Scotland, the Care Inspectorate welcomes any policy or legislative development that aims to improve the quality and consistency of social work and social care services in Scotland. However, achievement of the overall aims of the legislation, and key to the success of the policy, will be how it is interpreted on the ground, how consistently it is implemented across the country and how well it is resourced.

It is also important to note that the legislation as introduced is very much an enabling Bill, with much of the detail to be considered through secondary legislation. As we will touch on later in our response, it is difficult to ascertain whether the Bill will be successful in its purpose without clarity on what we'd deem to be critical to the success of the Bill. We are therefore basing our response on the current information available.

The changes being proposed will have significant implications for the social care sector, both adult and children's social care and social work services, as well as the ELC sector. The Independent Review of Adult Social Care, which proposed the National Care Service, did not include social work within the scope of its recommendations so we must ensure proper review and understanding in this area, being clear that the roles and responsibilities of social work are related to - but distinct from - that of social care. Social work follows the life journey, from birth to old age, and the breadth and depth of the role needs to be carefully considered and recognised to ensure it is given due parity and prominence. Social work professionals have an important range of professional skills and knowledge to support both a preventative approach and crisis management, mutually enabling and protecting individuals. This includes: assessing need; managing risk; ensuring human rights-based and person-centred practice; determining when levels of risk are such that escalation is required to protect people; and ensuring work is carried out in line with the appropriate legislation.

We welcome the inclusion of Clause 30 that requires ministers to consult publicly before any proposed transfer of services relating to children's services or justice social work services. Elements of social work practice are not exclusive of each other, and one family may have input from multiple social work professionals depending on their circumstances and needs – this support should be provided in a joined-up approach, and it is important for this reason that social work is kept together. Similarly, we also believe close consideration should be given to how ELC services relate to the new National Care Service and its functions once these are determined. We also note the current Scottish Government consultation on the inspection of ELC and school age childcare services as part of a broader process of education reform, and there is a need to ensure the two processes align as far as possible.

More broadly, changes to systems, processes and structures must also deliver cultural change to ensure person-centred, human rights-based care based on the Health and Social Care Standards, to lead to better outcomes for people experiencing care. Regardless of structure, characteristics of an effective social care and social work system must include: strong, clear, collaborative relationships across all sectors; effective leadership and leadership development; recognition of social care and social work on an equal footing with the NHS; remuneration at a level that serves to attract and retain the workforce, conditions and training for the workforce; commissioning practice that is responsive to people's needs; as well as adequate resourcing and good capital estate in terms of where services are delivered.

- **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 Care Inspectorate agrees with the aspiration to achieve greater consistency in the experiences and outcomes for people through the creation of a National Care Service. The Care Inspectorate's joint inspection overview reports [2012-2017](#) and [2018-2020](#) have highlighted the differences in experiences and outcomes for people living in different parts of the country. However, reflecting on NHS performance, we suggest that a single national service will not in itself bring equality of experiences and outcomes, but we acknowledge the potential for greater standardisation and coherence that the National Care Service could deliver. This will be dependent on how the Bill is interpreted on the ground, consistent implementation, how well it is resourced and how well it is monitored.

We can also see the potential benefits of having all areas of social work placed within the National Care Service, acknowledging the need articulated above for the distinct nature of social work to be considered and understood under any new arrangements. Possible benefits include the potential for more consistency in the delivery of services and more effective use of resources. Having social work, social care staff and key community health professionals working under a single organisation could impact positively on information sharing and support improved cooperation between health and social care professionals and better coordination of care and support. There could be improved opportunities to strengthen commitments to early intervention and prevention, including greater recognition of allied health professionals and to implementing the spirit and the legislative requirements of self-directed support. Within a National Care Service there could potentially be the opportunity to give clear messages about priorities and available care and support and to share the responsibility for finding solutions to complex health and social care/work issues.

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

In principle there aren't any aspects of the Bill as introduced that we disagree with. However, we do feel that the Bill as it stands is light on detail and we would seek further clarification around a number of provisions. We understand that this detail will be brought forward through further discussions with Scottish Government and secondary legislation, and we await this with interest.

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

Firstly, we would like to note that we welcome provisions in the Bill to strengthen our role through enhanced enforcement powers. We also believe it is appropriate that the role of the Care Inspectorate as an independent regulator focussed on social care and social work sits out with the scope of the National Care Service and welcome that this is the case. It is vital that inspection, scrutiny and quality improvement work is carried out by staff who have deep expertise and experience in the delivery of social care and social work services, ensuring they have high credibility in the sector and a strong understanding of the specific context in which practitioners undertake their work.

In relation to additional matters, we would wish to see included in the Bill, due to its prominence within the Feeley Review and the Scottish Government consultation on the National Care Service, it is notable that financial sustainability monitoring does not feature on the face of the Bill.

We have committed within our corporate plan 2022-25 to develop and provide the technology to deliver a financial sustainability monitoring role. Over the past two years, we have undertaken considerable work to develop proposals for how it would work and how we ensure that it is linked to the social care intelligence that we gather through our scrutiny and quality improvement work. We believe the Care Inspectorate is extremely well placed to take on this role and would welcome responsibility for it.

We expect that financial sustainability monitoring will be considered through secondary legislation. However, given the central role that it will play in helping to improve the quality and consistency of social work and social care services in Scotland, and the potential impact on the role and remit of the Care Inspectorate, we would very much welcome further discussion with Scottish Government colleagues.

We also note that there is no recognition of the position of ELC relative to the National Care Service noted within the Bill, or indeed in the Feeley Review or Scottish Government consultation. As we'd noted in our response to the Scottish Government consultation on the National Care Service, close consideration should be given to how ELC services relate to the new National Care Service and its functions once these are determined. The outcome of the current Scottish Government consultation on the inspection of ELC and school age childcare services should also be taken into account.

- **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 understand why this approach has been taken, given the breadth of areas that the legislation will cover. However, we note the lack of detail relating to key aspects of our work (outlined below) and would very much welcome further discussion with Scottish Government colleagues around the detail of its plans in areas that impact on our work.

### Quality improvement

Clause 3 (Responsibility for improvement) of the Bill states that it will be the duty of ministers to “put and keep in place arrangements for the purpose of monitoring and improving the quality of the services that the National Care Service provides”. It is not clear from the Bill as introduced, the impact of clause 3 on our own quality improvement role.

Ongoing work to strengthen co-ordinated and timely quality improvement interventions in ELC and social care at both local and national levels is welcomed.

We do not support the development of a nationalised centralised quality improvement body/agency as part of the NCS development. We would however support the recommendation within the Feeley report of a coordinated multi-agency National Quality Improvement programme for social care. As such, we seek clarity on roles and responsibilities in relation to our role in the development and subsequent delivery.

The Care Inspectorate has a proven track record in facilitating and leading quality improvement programmes, such as the [Care About Physical Activity](#) and ELC improvement programmes, from initiation and design to implementation and delivery. It is important for the Care Inspectorate to retain this role and the critical linkages it has to our scrutiny and assurance activity, including our equalities and involvement work. This ensures we can facilitate quality improvement support in the ELC, social work and social care sectors in a targeted, equitable and timely way.

### Complaints

Clause 14 (Complaints service) of the Bill states that ministers must provide a complaints service for receiving complaints about the services that the National Care Service provides and passing those complaints on to the appropriate person. Clause 15 gives ministers the power “to make provision in regulations about the handling of complaints” about services provided by the National Care Service and any other social service defined by [section 46](#) of the Public Services Reform (Scotland) Act 2010 (“the PSR Act 2010”).

The current arrangements for making complaints about registered social care services to the Care Inspectorate, as the independent scrutiny and quality improvement body, work well and they ensure protection to people who are experiencing care in Scotland. Managing complaints is a unique feature for a statutory regulator and means we have a clear role and processes in place as the central regulatory point for raising concerns. In addition to this, it is extremely important that the Care Inspectorate retains the ability to quickly and effectively gather intelligence and learn from complaints, as this is crucial to informing our scrutiny, assurance and quality improvement work.

The role of the provider in dealing with complaints about its services should not be diminished. However, it is also vital that the right for people to make a complaint directly to an independent scrutiny body, without first having to exhaust the provider's complaints process, is retained. This duty was transferred from the Regulation of Care (Scotland) Act 2001 into the PSR Act 2010 because of the particular vulnerability of people experiencing care services and the power imbalance between providers and recipients of care services. We would note that the Care Inspectorate is well recognised by people who experience care, relatives and staff who work in services, evidenced by 5,000 complaints received by the Care Inspectorate in 2021/22.

It is not clear from the Bill or accompanying documents, how the proposed new complaints service will interact with our own complaints system, and this is an area that will require clarification. It will be important that the route to making complaints is not hampered by additional steps, complaints are dealt with in a timely manner, that

we can use the intelligence that we gather from complaints to inform our scrutiny, assurance and quality improvement support to services, and that the process continues to be clearly understood by the public. It will also be important that built into any complaints system is advocacy or support for people who are making complaints about professionals' decisions.

### Early learning and childcare (ELC) services

Clause 30 of the Bill requires ministers to consult publicly before any proposed transfer of services relating to children's services or justice social work services to the National Care Service. This is an important provision, which we would welcome. However, it will also be important to ensure that any consideration of the inclusion of children's services in the National Care Service is mindful of the current Scottish Government consultation on the inspection of ELC and school age childcare services. Scrutiny, assurance and quality improvement support in relation to ELC services is an important part of the Care Inspectorate's role. Both the Feeley Review and the Scottish Government consultation on the introduction of a National Care Service made no reference to ELC and we strongly suggest that the interaction between ELC and other aspects of social care and social work should be acknowledged.

It is important that children have access to high-quality ELC (either funded or non-funded) and ELC is recognised as a crucial factor in children's longer-term outcomes. This should be taken into account when considering the National Care Service. Characteristics of high-quality provision include a high-quality workforce, effective leadership and a strong focus on play-based learning. It is crucial that the regulation and scrutiny of the ELC sector is considered alongside, but not within, the development of the National Care Service.

### Social Work

The Care Inspectorate, or Social Care and Social Work Improvement Scotland, as set out in legislation, is the independent scrutiny and quality improvement support body for social care and social work services in Scotland. As set out earlier in this response, the unique role of social work needs to be carefully considered and recognised to ensure it is given due parity and prominence within the National Care Service.

The Bill's policy memorandum notes that the National Care Service will provide opportunities for training and development, including the creation of a National Social Work Agency providing national leadership, oversight and support. The Care Inspectorate hopes that the creation of a National Social Work Agency will promote the value of social work and support improvements in learning and development opportunities for social workers and social work managers. This should attract more entrants to the profession and improve retention.

### Financial sustainability monitoring

As noted in our response to question 4, given the potential impact of financial sustainability monitoring on the remit of the Care Inspectorate, we hope that

additional detail on the provision of financial sustainability monitoring will be available as soon as possible to support our strategic planning.

### Information sharing

Section 36 gives the Scottish Ministers power to establish a scheme for sharing information to improve the efficiency and effectiveness of National Care Service and NHS services. Section 35 makes provision about information standards which will support information sharing. We note that secondary legislation will be required to enable information sharing and ensure consistent information standards and that the Scottish Government will develop further assessments of the data protection impact and specifics of data controller responsibilities. As a key body in relation to the collection, storage and sharing of social care and social work data, we are keen to be involved in further discussions about our role in this and how this the scheme will work in practice.

- **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?**

Clause 30 requires ministers to consult publicly before any proposed transfer of services relating to children's services or justice social work services and we would welcome this provision. It is also essential that all available evidence and experience is considered in taking forward any changes.

We also see the importance of maintaining the integrity and cohesion of social work services throughout the life journey from early years to adult and older people's services. Any disaggregation of specialist social work services, in the creation of a National Care Service, even in terms of delayed timeframes for integration of some areas of services, would need careful consideration. We need to develop a comprehensive and shared understanding of all the issues involved.

Specific consideration needs to be given to the structures and support required for strong, effective professional leadership of social work at the highest levels and in sufficient numbers within the National Care Service and any local community health and social care partnership boards.

The Care Inspectorate sees the potential benefits of having social work placed within the National Care Service. This includes the potential for more consistency nationally in the delivery of services and more effective use of resources. Having social work, social care staff and key community health professionals working under a single organisation could impact positively on information sharing, support improved cooperation between health and social care professionals and better coordination of care and support. There could be improved opportunities to strengthen commitments to early intervention and prevention and to implementing the spirit and the legislative requirements of self-directed support. Within a National Care Service there would be the opportunity to give clear messages about priorities and available care and

support and to share the responsibility for finding solutions to complex health and social care issues.

While we agree that social work must have strong connectivity to social care, we are equally clear that planning, assessment, commissioning and accountability for social work also needs to be closely linked to local communities and key services such as education and housing. As the thinking about social care evolves, it is essential to think about where and how social work fits with social care and to understand the value that social work will add to this.

In addition, as we've mentioned in our response to earlier questions, structural reform of adult social care, including the decision on whether services for children and young people in need of care and support are included, will have significant implications for ELC. With ELC currently forming such a large proportion of social care provision in Scotland, with services/workforce regulated by the Care Inspectorate and the Scottish Social Services Council, it is crucial that the ELC sector is closely considered alongside, but not necessarily within, the scope of the National Care Service.

- **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?**

As a public body, we would of course expect that the National Care Service provide the best use of public money, as well as providing the best service for Scotland's people regardless of where they are in the country. It will be important that the National Care Service in particular is properly resourced to ensure its success, as well as the social care and social work sectors more widely.

### **Impact assessments**

**The Bill is accompanied by the following impact assessments. 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?**

- [Equality impact assessment](#)

It would be helpful if the impact assessment could be consistent in terms of language when it comes to the protected characteristics of sex, as sometimes it is referred to as gender (pages 18, 23, 29 and 34). Public bodies are working hard to be consistent with language, following guidance from the Chief Statistician, so this consistency would be welcomed.

We also suggest that reference to an intersectional approach should be included. Age is a key characteristic in care, but this can also interact with other factors such as ethnicity, which creates unequal quality of care due to lack of understanding of language or cultural needs. Language is mentioned in the impact assessment, but it is also important to address the cultural aspect and how this will have an impact on the quality of care and support that people experience.



We also note a number of references to a lack of data in particular areas and would hope that this is explored as part of the Equality Data Improvement Programme and the Scottish Government's consultation on a draft plan to improve and strengthen Scotland's equality evidence base, which will form the basis of Scotland's new Equality Evidence Strategy.

- [Business and regulatory impact assessment](#)
- [Child rights and wellbeing impact assessment](#)

We welcome recognition from the Scottish Government that as the Independent Review of Adult Social Care did not cover children's services, there is not an evidence base which has considered the full range of benefits and/or impacts of a model like the National Care Service for children's services. We believe that a full evidence base and risk/benefit analysis relating to children's services becoming part of a national adult care service is essential before any further consideration or decision regarding integration is made.

We also found it encouraging to read the references in the child rights assessment to a focus on ethical commissioning regarding person centred and bespoke planning of care for individuals. It was also good to read frequent references to implementation of the UNCRC in Scotland, The Promise and using the Promise Design School model as the prototype for next stages of design for a national care service for adults.

- [Data protection impact assessment](#)

At this stage in the Bill's progress, the detail in relation to data protection is very high level and there are no immediate issues of concern. However, we would like to be involved in the thinking as it develops in relation to data protection as the design of the National Care Service is developed. We are committed to co-designing to fully understand the impact and progress of regulations accordingly. Regarding the impact on specific groups, individuals will continue to have the same rights under the UK GDPR.

- [Fairer Scotland duty assessment](#)
- [Island communities impact assessment](#)

## Financial Memorandum

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

The Care Inspectorate provided costs to the Scottish Government on the implementation of Anne's Law, as well as the costs of providing a financial sustainability monitoring function. The costs for the implementation of Anne's Law appear in the Financial Memorandum. The costs of providing a financial sustainability monitoring function do not.

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

n/a

- **Did you have sufficient time to contribute to the consultation exercise?**

n/a

- **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.**

The costs of implementing Anne's Law are reflected accurately within the Financial Memorandum.

We expect to see further detail on a proposed financial sustainability monitoring function within secondary legislation. It is not clear from the Bill or Financial Memorandum whether it is intended that the Care Inspectorate will undertake this role. As financial sustainability monitoring does not appear on the face of the Bill, there are no estimated costs for this proposed role within the Financial Memorandum.

More generally, the financial implications of any potential structural change for the Care Inspectorate, as a consequence of the introduction of the Bill, are not reflected in the Financial Memorandum. It is not clear at this stage whether the National Care Service will have any significant impact on the work of the Care Inspectorate out with what appears in the Bill as introduced. However, any scenarios that see Care Inspectorate functions change will have financial implications for the Care Inspectorate and these would need to be considered.

- **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?**

As above, the cost implications for the introduction of Anne’s Law are covered in the Financial Memorandum and we are content that these can be met by the organisation. We are less clear on the costs of financial sustainability monitoring or the potential for structural change, both which would have financial implications for the organisation.

- **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?**

There are risks around the financial implications of VAT status, structural change and changes to employment terms of conditions. We are unclear as to what extent these uncertainties are reflected in the cost ranges outlined in the Financial Memorandum.

## Specific provisions

### Complaints (Sections 14 and 15)

**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?

As noted earlier in our response, Clause 14 (Complaints service) of the Bill states that ministers must provide a complaints service for receiving complaints about the services that the National Care Service provides and passing those complaints on to the appropriate person. Clause 15 gives ministers the power “to make provision in regulations about the handling of complaints” about services provided by the National Care Service and any other social service defined by [section 46](#) of the Public Services Reform (Scotland) Act 2010 (“the PSR Act 2010”).

The current arrangements for making complaints about registered social care services with the Care Inspectorate work well and they ensure protection to people who are experiencing care in Scotland. Managing complaints is a unique feature for a statutory regulator and means we have a clear role and processes in place as the central regulatory point for raising concerns. In addition to this, it is extremely important that the Care Inspectorate retains the ability to quickly and effectively gather intelligence and learn from complaints, as this is crucial to informing our scrutiny, assurance and quality improvement work.

The role of the provider in dealing with complaints about its services should not be diminished. However, it is also vital that the right for people to make a complaint directly to an independent scrutiny body, without first having to exhaust the provider's complaints process, is retained. This duty was transferred from the Regulation of

Care (Scotland) Act 2001 into the PSR Act 2010 because of the particular vulnerability of people experiencing care services and the power imbalance between providers and recipients of care services. We would note that the Care Inspectorate is well recognised by people using care services, relatives and staff who work in services, evidenced by 5,000 complaints received by the Care Inspectorate in 2021/22.

It is not clear from the Bill or accompanying documents, how the proposed new complaints service will interact with our own complaints system, and this is an area that will require clarification. It will be important that the route to raising concerns is not hampered by additional steps, complaints are dealt with in a timely manner, that we can use the intelligence that we gather from complaints to inform our scrutiny, assurance and quality improvement support to services, and that the process continues to be clearly understood by the public. It will also be important that built into any complaints system is advocacy or support for people who are making complaints about professionals' decisions.

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

**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 noted earlier in our response, we welcome Clause 30 of the Bill, which requires ministers to consult publicly before any proposed transfer of services relating to children's services or justice social work services and we would welcome this provision. It is also essential that all available evidence and experience is considered in taking forward any changes.

We also see the importance of maintaining the integrity and cohesion of social work services throughout the life journey from early years to adult and older people's services. Any disaggregation of specialist social work services, in the creation of a National Care Service, even in terms of delayed timeframes for integration of some areas of services, would need careful consideration. We need to develop a comprehensive and shared understanding of all the issues involved.

Specific consideration needs to be given to the structures and support required for strong, effective professional leadership of social work at the highest levels and in sufficient numbers within the National Care Service and any local community health and social care partnership boards.

The Care Inspectorate sees the potential benefits of having social work placed within the National Care Service. This includes the potential for more consistency nationally in the delivery of services and more effective use of resources. Having social work,

social care staff and key community health professionals working under a single organisation could impact positively on information sharing, support improved cooperation between health and social care professionals and better coordination of care and support. There could be improved opportunities to strengthen commitments to early intervention and prevention and to implementing the spirit and the legislative requirements of self-directed support. Within a National Care Service there would be the opportunity to give clear messages about priorities and available care and support and to share the responsibility for finding solutions to complex health and social care issues.

While we agree that social work must have strong connectivity to social care, we are equally clear that planning, assessment, commissioning and accountability for social work also needs to be closely linked to local communities and key services such as education and housing. As the thinking about social care evolves, it is essential to think about where and how social work fits with social care and to understand the value that social work will add to this.

It will also be important to ensure that any consideration of the inclusion of children's services in the National Care Service is mindful of the current Scottish Government consultation on the inspection of ELC and school age childcare services. Scrutiny, assurance and quality improvement work in relation to ELC services is an important part of the Care Inspectorate's role. Both the Feeley Review and the Scottish Government consultation on the introduction of a National Care Service made no reference to ELC and we strongly suggest that the interaction between ELC and other aspects of social care and social work should be acknowledged.

Children using ELC receive care through a statutory entitlement and should be afforded the same high value as is being placed on health and social care where there are additional needs. It is important that children have access to high-quality ELC (either funded or non-funded) and ELC is recognised as a crucial factor in children's longer-term outcomes. This should be taken into account when considering the National Care Service. Characteristics of high-quality provision include a high-quality workforce, effective leadership and a strong focus on play-based learning. It is crucial that the regulation and scrutiny of the ELC sector is considered alongside, but not within, the development of the National Care Service.

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

**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?

As noted earlier in our response, Section 36 gives the Scottish Ministers power to establish a scheme for sharing information to improve the efficiency and effectiveness of National Care Service and NHS services. Section 35 makes

provision about information standards which will support information sharing. We note that secondary legislation will be required to enable information sharing and ensure consistent information standards and that the Scottish Government will develop further assessments of the data protection impact and specifics of data controller responsibilities. As a key body in relation to the collection, storage and sharing of social care and social work data, we are keen to be involved in further discussions about our role in this and how this the scheme will work in practice.

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

**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?

The Care Inspectorate welcomes amendments to the PSR Act to allow Scottish Ministers to exercise a new power to require care home providers to comply with any direction issued by the Ministers about visits to or by care home residents.

Connecting with people is a fundamental right and essential for wellbeing and good mental health. The Scottish Government has already published two new Health and Social Care Standards for adult care homes that has put Anne's Law into practical effect while legislation is being prepared. Implementation of these two new Standards will enable care homes to build on existing good practice in supporting meaningful contact, including visiting and support from people important to them when this is their choice.

The Care Inspectorate expects all registered care homes for adults and older people to meet the new Standards. We hope that Anne's Law will further promote a consistent approach to supporting and enforcing requirements to enable people to remain connected to those important to them, even in exceptional circumstances such as the pandemic.

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

**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?

Clause 42 modifies [section 64](#) of the PSR Act 2010 to enable ministers to prescribe by order circumstances in which the Care Inspectorate can move directly to

proposing to cancel a care service's registration without first issuing an Improvement Notice.

While we agree with the provision being proposed, we would suggest that consideration should also be given to how enforcement action and in particular, Improvement Notices might be capable of enhancement to require not only improvement, but sustained improvement.

The National Care Service Bill also provides an opportunity, which should not be missed, to consider the regulatory regime as set out in statute more generally with a view to holistic reform. For example, addressing issues with registration arrangements may reduce the need for enforcement action "downstream". We would suggest that consideration is given as to whether arrangements for registration of care services should be more stringent or prescriptive, including in relation to the "fitness" of applicants.

Consideration should also be given to arrangements to address the lack of transparency sometimes encountered as to the true ownership of care services, whether prospective or registered, and to the relative ease with which new companies (often in the same ownership as existing providers) can take over care services, unencumbered by a poor regulatory history. While registration of care services and their regulation currently takes place at "service" level, consideration should be given as to whether some aspects of regulation should be capable of taking place at "provider" level, where a provider operates more than one registered care service.

It is our understanding that these areas could be considered through secondary legislation. We would very much welcome further discussions with Scottish Government, as well as public consultation on any further changes to our powers that are proposed.

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

**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?

As the regulator, it would be useful to understand how any intervention order might interface with any corresponding enforcement action that the Care Inspectorate is taking and if consideration has been given to situations where there is simultaneous Ministerial intervention and Care Inspectorate enforcement (or even scrutiny short of enforcement). It will be important to understand how such a situation will be dealt with, regarding roles, responsibilities, and priorities to ensure clarity.

Furthermore, the Care Inspectorate would propose the introduction of an obligation in the Bill requiring Ministers to give the Care Inspectorate notice of any application

that they make for an intervention order, within a specified timescale, so that this can be taken into account in terms of our own actions in such circumstances.

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

**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?

Care boards will need to plan effectively to deliver the services they need to meet the functions that have been conferred upon them - vision, objectives, structure and budget planning will be an important part of this. These services must be commissioned ethically.

It will be important to understand how or if the care boards' strategic plans and ethical commissioning strategies will contribute to the delivery of outcomes for people or deliver a seamless and person-centred experience of support. These elements have already been defined in the Public Bodies (Scotland) Act 2014 through the National Health and Well-Being Outcomes and Integration Planning and Delivery Principles. Integration authorities take these into account when developing their strategic commissioning plans.

It is important that the new care boards are clear on what they need to deliver in terms of outcomes or experiences for people who will use the services they put in place and set out the relationship between care boards' strategic plans and integration authorities' strategic commissioning plans. We would also welcome an indication of how the government intends to provide scrutiny and assurance of the quality and effectiveness of the care boards' strategic plans, along with any indication of how improvement will be supported. This equally applies to ethical commissioning strategies. In addition, ethical commissioning is relatively undefined and it is unclear how the requirement to commission ethically will be evaluated and enforced.