

# Finance and Public Administration Committee

28<sup>th</sup> Meeting, 2022 (Session 6), Tuesday 8  
November 2022

## National Care Service (Scotland) Bill - Financial Memorandum

### Purpose

1. The Committee will take evidence in relation to the [Financial Memorandum \(FM\)](#) for the National Care Service (Scotland) Bill from the Minister for Mental Wellbeing and Social Care.
2. This is the Committee's final evidence session on the FM and provides an opportunity to further explore the potential costs associated with the measures introduced by the Bill.
3. The Committee has received oral evidence on the FM during meetings on [25 October](#) and [1 November](#), when it heard from the following witnesses:

#### **25 October - Panel 1**

Scottish Government Bill team

#### **25 October - Panel 2**

- CIPFA Integration Joint Board Chief Finance Officers Network
- COSLA
- SOLACE Scotland

#### **1 November**

- Audit Scotland
- Fraser of Allander Institute
- Health and Social Care Alliance Scotland (the ALLIANCE)
- NHS Scotland.

4. This paper should be read alongside the SPICe summary of emerging themes (attached at Annexe A), the [SPICe themes paper](#), which provides further background and analysis, and the [SPICe Summary of Written Submissions](#).

### Background

5. The [National Care Service \(Scotland\) Bill](#) was introduced by the Scottish Government on 20 June 2022 and allows Scottish Ministers to transfer social care responsibility from local authorities to a new, national service.

6. The Bill is divided into the following parts, as stated in the [explanatory notes](#):

- “Part 1 establishes the National Care Service. It makes the Scottish Ministers responsible for organising the National Care Service, enables them to establish new public institutions called care boards to comprise the National Care Service and gives the Ministers power to make regulations transferring health and social care functions to the institutions comprising the National Care Service.
- Part 2 gives the Scottish Ministers’ powers to make records about people’s health and social care more consistent and better integrated.
- Part 3 contains modifications to existing laws relating to the provision and regulation of care.
- Part 4 contains provisions usually found at the end of a Bill, namely the power to make ancillary regulations, further elaboration in relation to regulation-making powers elsewhere in the Bill and the sections dealing with commencement and short title.”

7. [Rule 9.3 of Standing Orders](#) states in relation to Financial Memorandums that:

“2.A Bill must on introduction be accompanied by a Financial Memorandum which sets out best estimates of the costs, savings, and changes to revenues to which the provisions of the Bill would give rise, and an indication of the margins of uncertainty in such estimates. The Financial Memorandum must also include best estimates of the timescales over which such costs, savings, and changes to revenues would be expected to arise. The Financial Memorandum must distinguish separately such costs, savings, and changes to revenues that would fall upon—

- (a) the Scottish Administration;
- (b) local authorities; and
- (c) other bodies, individuals and businesses.

8. The accompanying [Guidance on Public Bills](#) notes that:

“the Financial Memorandum should explain how these costs, savings, and changes to revenues arise, and what the implications are for the Scottish Consolidated Fund. For example, provision for a new or modified tax raising power could, assuming the power is used, significantly increase or reduce the amount of revenue paid into the Scottish Consolidated Fund. The discontinuation of a service or dissolution of an organisation could present potential savings to budgets and the Financial Memorandum should set out best estimates for these savings.”

9. The National Care Service (Scotland) Bill is a framework bill. The ‘framework’ intends for the substantive detail to be co-designed later, chiefly with people who access support, those who deliver it and unpaid carers. As a result, the accompanying [FM](#) notes that “there are increased uncertainties surrounding the cost estimates, and the timing of those costs”. Table 1 on page 6 of the FM provides a summary of the total estimated costs of provisions in the Bill.

10. On 30 June 2022, the Committee received a [letter from the Minister for Mental Wellbeing and Social Care](#) correcting an error in the Financial Memorandum submitted by the Scottish Government and providing updated figures for Table 1.

11. The Presiding Officer confirmed on 1 July 2022 that a financial resolution will be required in respect of the Bill.

## Scrutiny of the Bill and the Financial Memorandum

12. The Health, Social Care and Sport Committee has been designated as lead committee in relation to scrutiny of the Bill, although other committees are also involved in examining particular elements of the Bill. Given the wide impact of the Bill on various policy areas, a joint call for views, led by the Health, Social Care and Sport Committee, was launched on 8 July and closed on 2 September 2022.

13. The call for views included the following standard questions that the Finance and Public Administration Committee asks on all Financial Memorandums:

- Did you take part in any consultation exercise preceding the Bill and, if so, did you comment on the financial assumptions made?
- If applicable, do you believe your comments on the financial assumptions have been accurately reflected in the financial memorandum (FM)?
- Did you have sufficient time to contribute to the consultation exercise?
- If the Bill has any financial implications for you or your organisation, do you believe that they have been accurately reflected in the FM? If not, please provide details.
- Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?
- If applicable, are you content that your organisation can meet any financial costs that it might incur as a result of the Bill? If not, how do you think these costs should be met?
- Does the FM accurately reflect the margins of uncertainty associated with the Bill's estimated costs and with the timescales over which they would be expected to arise?

14. The call for views received a total of 215 responses, which are available on the Parliament's [Call for Views](#) site. Of the 215 responses, approximately one third included comments on the FM. Alongside the main consultation, the Committee received briefings from [COSLA](#), [CIPFA](#) and [Social Work Scotland](#). The Fraser of Allander Institute (FAI) has also undertaken [research](#) on the Bill, with funding from the Coalition of Care and Support Providers in Scotland. [Annex C](#) to the FAI report provides a detailed analysis of the Financial Memorandum.

15. In addition to its role in considering Financial Memorandums, each year the Committee is required to consider the budget proposal from the Scottish Parliamentary Corporate Body (SPCB). The SPCB budget provides for the operating costs of the Parliament along with the costs of the Ombudsman and Commissioners (termed 'Officeholders') which fall within the definition of SPCB supported bodies.

The Presiding Officer on behalf of the SPCB has provided a [submission](#) on the financial impact of the Bill on the SPCB.

## Next steps

16. The Committee will consider and agree a report on the Financial Memorandum at a future meeting.

Committee Clerking Team  
November 2022

## Finance and Public Administration Committee

28th Meeting, 2022 (Session 6), Tuesday, 8  
November

### National Care Service (Scotland) Bill: Financial Memorandum

#### Summary of emerging themes

##### Background

The Committee has held two evidence sessions on the [Financial Memorandum \(FM\) for the National Care Service \(Scotland\) Bill](#). A separate SPICe themes paper and summary of the call for views provide detailed context for the evidence sessions. This short paper provides a summary of some of the main themes that have emerged from the scrutiny sessions to date to support the final scrutiny session with the Minister for Mental Wellbeing and Social Care. It also provides an update on an issue arising from the [Emergency Budget Review](#) published on 2 November 2022.

##### Emergency Budget Review – impact on NCS Bill FM

The Scottish Government published its [Emergency Budget Review](#) (EBR) on 2 November 2022. This sets out how the Scottish Government plans to find savings and reprioritise spending in the current financial year (2022-23) in order to deal with pressures on public sector pay and respond to cost of living pressures for households and businesses. As part of the savings identified, the EBR states that £70 million will be re-prioritised from the budgets previously identified for 2022-23 for Social Care and the National Care Service. The description given states that this £70 million relates to:

“Continuing to progress the commitment to fair work and adult social care, with a one off saving released this financial year as we work with stakeholders on delivery mechanisms for future years. Re-phasing of NCS development

from the Financial Memorandum based on recruitment profile and data and digital investment.”

It is not clear how much of the £70 million re-profiling relates to the NCS costs identified for 2022-23, as distinct from wider social care costs. The FM identifies planned spending by the Scottish Administration of £24–36 million in 2022-23, which is split between staff costs (£18-27 million) and ‘Third party advice (legal/consulting)’ (£6-9 million). The EBR would suggest that spending will be lower than identified in the FM due to a different profile of recruitment and data/digital investment. However, the extent of the revisions to the FM plans is unclear and it is not clear whether the costs will be incurred in later years.

## Scrutiny issues

The FM, as required by the Standing Orders, reflects the costs associated with the primary legislation that has been introduced. The “framework” nature of the legislation introduced means that major decisions on the proposed delivery arrangements have yet to be taken and the Scottish Government has said that these will be agreed through a co-design process. The lack of detail in the primary legislation is, in turn, reflected in the FM and some witnesses have noted that – in the absence of detail in the legislation – this is to some extent inevitable.

There are many areas of uncertainty that have yet to be resolved that will have important implications for the final costs (for example, the number of care boards to be established). Until these decisions are taken, there will remain uncertainties over the costs. From a financial scrutiny perspective, this presents some challenges as it is difficult to assess the robustness of estimates that, by their nature, reflect considerable uncertainty over the delivery model.

The organisations and individuals that have given oral and written evidence have highlighted concerns around the scope for further detailed scrutiny as decisions are taken. Audit Scotland has said that “it will be critical to regularly update estimates of overall costs and other financial implications and report on these regularly to Parliament and local authorities” and many others have expressed similar views around the need for further updates, which receive appropriate levels of scrutiny.

In giving evidence to the Committee, the Scottish Government stressed that further business cases would be presented to Parliament as decisions were made and details developed. There will also be secondary legislation to reflect decisions. However, neither business cases nor the costs associated with secondary legislation would normally receive the same level of Parliamentary scrutiny as changes that are introduced via primary legislation.

Responding to these concerns in the evidence session on 25 October, Donna Bell of the Scottish Government said:

“...we know that, as the co-design process proceeds, we will have to do significant further work to set out the financial implications and the value-for-money questions that we will need to answer. We would be very happy to provide the committee with all the information that we produce; indeed, we would expect to do so. After all, ministers will expect us to do so to ensure that parliamentary scrutiny can take place. Arrangements can be made in that respect.”

## Scale of uncertainty and gaps in coverage

FMs will always represent estimates and will never be precise forecasts of eventual costs. However, the framework nature of the legislation in this particular case makes for greater than usual uncertainty in the estimates. Audit Scotland considered that the costs set out in the FM “are likely to significantly understate the margin of uncertainty”.

The uncertainties reflect both decisions that have yet to be taken, but also a number of gaps in the coverage of the FM. According to the Parliament’s Standing Orders (Rule 9.3), an FM should set out the “best estimates of the costs, savings, and changes to revenues to which the provisions of the Bill would give rise.” However, there are a number of areas where the FM fails to give any indication of the likely scale of costs. In their written evidence, Audit Scotland listed a number of areas where no indication of costs has been provided:

- the costs of any national care boards
- transition costs for Local Authorities and Health Boards, including double running.
- the impact of changes to VAT treatment
- the impact of any changes to pension scheme arrangements and associated contribution costs arising from pay harmonisation/ rationalisation
- the extent of potential changes to capital investment and maintenance costs
- the cost of the health and social care information scheme.

In respect of costs associated with VAT, the Scottish Government cited in evidence on 25 October some work undertaken in 2014 in relation to the establishment of the integration joint boards. This indicated that the impact of charging VAT would be in the region of £32 million. However, a later witness (Sharon Wearing, CIPFA) noted that she considered this to be an underestimate of the actual impact.

In respect of the health and social care information scheme, reference has been made by a number of witnesses (and in written evidence), to the many examples of cost over-runs in relation to public sector IT projects. In oral evidence, Audit Scotland noted that an FM is expected to give an indication of the range of potential costs, not an exact figure, so there was no justification for not providing any costs for the health and social care information scheme in the FM.

Another gap in the coverage of the FM that has been highlighted in evidence sessions is the lack of any estimates of the potential costs of transferring assets from local government.

Even in the context of uncertainties, the FM would be expected to give an indication of the potential scale of all costs associated with the Bill to inform scrutiny and give an indication of the potential upper end of the range of costs. The costs associated with the items currently not covered by the FM could add considerably to the overall total costs set out in the FM. In giving evidence to the Committee on 25 October, Sharon Wearing of CIPFA noted:

“We are concerned about the gaps because they will cause significant costs, which will add to the implications.”

## Lack of detail on assumptions underpinning FM

Evidence sessions to date have also highlighted the lack of detail on some of the assumptions underpinning the cost estimates in the FM. Examples include the basis for staff costings and the assumptions around future social care expenditure levels. Emma Congreve of the Fraser of Allander explained that they had gained additional background information on these assumptions through discussion with Scottish Government officials, but agreed that it would have been helpful for this information to be contained in the FM itself for reasons of transparency and to inform scrutiny.

## Affordability and budget implications

Written submissions and those giving oral evidence have highlighted concerns around the use of substantial resources at a time when budgets are stretched. Several witnesses have suggested that the resources could be better used to address improving services and outcomes within the current structure and have highlighted the opportunity cost of investing such large sums in structural reform. NHS Scotland made this point in oral evidence to the Committee on 1 November.

## Wider impact on businesses and third sector organisations

A number of witnesses and those submitting written evidence had questioned the following statement in the FM:

“It is not anticipated that the establishment of the NCS and care boards, and the transfer of functions to those bodies, will have any financial implications for any other public bodies, businesses or third sector organisations, or for individuals”

The ALLIANCE in particular felt that this claim was unlikely to be accurate for the third sector, where additional costs would be incurred in order to meet with information standards and data sharing and to update software and undertake training in relation to this. While noting that these costs might be modest relative to the overall scale of costs, the ALLIANCE stressed that they would be significant for individual providers and could affect their viability.

**Nicola Hudson, Senior Analyst, Financial Scrutiny Unit, SPICe Research  
November 2022**

Note: Committee briefing papers are provided by SPICe for the use of Scottish Parliament committees and clerking staff. They provide focused information or respond to specific questions or areas of interest to committees and are not intended to offer comprehensive coverage of a subject area. The Scottish Parliament, Edinburgh, EH99 1SP [www.parliament.scot](http://www.parliament.scot)