

Criminal Justice Committee

**28th Meeting, 2022 (Session 6), Wednesday
9 November 2022**

National Care Service Bill

Note by the clerk

Introduction

1. Members have previously discussed the possible criminal justice implications of the newly introduced [National Care Service \(Scotland\) Bill](#).
2. The Bill has been referred to the Health, Social Care and Sport Committee as the lead committee. Parliament has agreed that Stage 1 of the National Care Service (Scotland) Bill be completed by 17 March 2023, although the Health Committee is trying to complete evidence taking in this calendar year.
3. As outlined in the [Policy Memorandum](#), after a further consultation, the Bill enables justice social work (and children's services) to be brought into the National Care Service (NCS) alongside adult social work and social care. Specifically, the Bill requires Scottish Ministers to carry out further consultation on a proposed transfer of the justice service from local authorities. A summary of the consultation process and responses must be laid before the Parliament with the implementing regulations for parliamentary scrutiny before any transfer takes place.

Previous discussion

4. Members previously agreed to wait until the written submissions to the Health Committee's calls for views had been published and to then decide if further evidence-taking (possibly a one-off session) was needed, with a view to then submitting views to the lead committee on the justice proposals.

Written submissions

5. The Criminal Justice Committee has previously sought the views of CoSLA, Social Work Scotland and the Criminal Justice Voluntary Sector Forum on the Bill.
6. Alongside these, the lead committee has received 216 [written submissions](#) to its call for views on all aspects of the Bill. Around 40 of these cover the criminal justice sector and about 20 refer specifically to the work of criminal justice social work.
7. The clerks have had an initial, brief look at these submissions. Most of the submissions from local authorities make the point that the previous independent review of adult social care did not make recommendations about the Social Work workforce, recognising that this would require careful consideration alongside the implementation of [The Promise Scotland](#), the review of Children’s Services and any changes planned for Criminal Justice Social Work.
8. As such, as with the previous submission from CoSLA to the Committee, they express concerns about any move to incorporate criminal justice social work into the NCS.
9. Others such as UNISON reject a move towards what they describe as a “marketisation” of care and do not want to see criminal justice services (or indeed any care services) as part of a “vibrant market” as has been proposed by the Scottish Government.
10. Community Justice Scotland said that it did “not believe that current evidence and planning has sufficiently demonstrated that justice services should be included in the National Care Service either now or in the future.”
11. Others take a different view. For example, the Mental Health Welfare Commission for Scotland says that—

“The inclusion of criminal justice social work and children’s social work and social care services should be considered as part of the NCS from the outset, otherwise the current disparity of access to services will remain. The Bill proposes a further consultation, which although welcomed, which is suggested should take place prior to the NCS enactment to maximise full inclusion of all services.”
12. ENABLE Scotland also welcomed the consultation and said they “hope it allows for genuine co-production in developing proposals” relating to criminal justice.
13. Community Pharmacy Scotland said that it agreed with the inclusion of justice services into the NCS as did [CEMVO Scotland](#). Edinburgh Health and Social Care Partnership said “transferring [...] Criminal Justice Services builds resilience into the system and would support real lasting change and allow enhancement of cradle to grave services.” Also, the Scottish Association for

Social Work said overall its members “support the transfer of children's and justice social work services into the NCS.” Whereas, Social Work Scotland supported the “intent” behind such integration but warned that “the Bill, as currently drafted, does not provide a robust process for delivering reform of such significance.”

14. Others are a bit more nuanced. For example, the Highland Third Sector Interface say the proposals need to be further thought through. Whereas, the Faculty of Advocates state that “any alteration of provision of children’s services and justice services should only be undertaken by focussed amendment of primary legislation following appropriate consultation” and not via the means of a consultation outline in the current framework bill.
15. Similarly, the Law Society of Scotland said it did not have a policy position on which services should be part of the NCS but noted that there was “no published evidence base for the full proposals” and said that such a base was “important in order to provide clear information for the public on the basis for such seismic change and a basis for accountability for the changes introduced.”

Action

16. **Members are invited to consider whether to go ahead with a further evidence taking session in the coming weeks, perhaps with a small panel representing the different opinions, with a view to then submitting views to the lead committee.**

**Clerks to the Criminal Justice Committee
November 2022**