

Health, Social Care and Sport Committee

**35th Meeting, 2022 (Session 6), Tuesday,
29 November 2022**

National Care Service (Scotland) Bill

Note by the clerk

Background

1. The National Care Service (Scotland) Bill was introduced by the Scottish Government on 20 June 2022.
2. On 30 June 2022, the Parliament agreed to designate the Health, Social Care and Sport Committee as lead committee for scrutiny of the Bill at Stage 1 and to designate the Education, Children and Young People Committee and the Local Government, Housing and Planning Committee as secondary committees.

Purpose of the Bill

3. The Scottish Government describes the purpose of the Bill as being “to improve the quality of social work and social care services in Scotland”. By bringing forward proposals for the creation of a National Care Service, the Scottish Government aims to make sure that these services are offered in the same way and at the same standard throughout Scotland.
4. In September 2020, the Scottish Government announced an [Independent Review of Adult Social Care](#) (IRASC), otherwise referred to as ‘The Feeley Review’ after its lead author, Derek Feeley. The review’s aim was to recommend improvements to adult social care in Scotland so that people who use social care services and work in the sector have a better experience. In August 2021, the Scottish Government published a [consultation on its proposals to improve social care delivery in Scotland](#), based on some of the recommendations in the review – the scope of this consultation was broader than adult social care and included children’s services and criminal justice social work. This Bill has been developed in response to some of the review’s recommendations and responses to the consultation.
5. The Bill as introduced allows Scottish Ministers to transfer responsibility for social work and social care from local authorities to a new, national service, under their direct control. Social care, social work and community health services would be planned and delivered by new care boards. The national care service, like services organised by integration authorities now, could include adult and children’s services, as well as areas such as justice social work. The Scottish

Government would need to consult the public before transferring children’s services or justice social work responsibilities.

6. Scottish Ministers will also be able to transfer healthcare functions from the NHS to the National Care Service. Care or health services that are transferred could be delivered nationally or locally by care boards. New ‘special’ care boards, not based on geographic boundaries, could also be established to provide specialised national services.
7. As well as establishing the National Care Service, the Bill proposes other changes including:
 - allowing information to be shared by the National Care Service and the NHS;
 - introducing a right to breaks for carers;
 - giving rights to people living in adult care homes to see the people important to them (known as “Anne’s Law”).

Scrutiny

8. The Committee initially agreed its approach to Stage 1 scrutiny of the National Care Service (Scotland) Bill during its meeting on 28 June 2022 before further discussing its approach at its meeting on 6 September 2022.
9. The Committee issued a call for written views and Your Priorities digital consultation on the Bill on 8 July 2022, which ran until 2 September 2022. The call for written views received 215 responses¹. More than 150 users took part in the online discussion via the Your Priorities digital consultation, providing over 300 comments on provisions in the Bill and over 550 ratings.²
10. In preparation of its Stage 1 scrutiny of the Bill, the Committee agreed to commission research looking at international examples of how social care is organised and funded.
11. The Committee will undertake Stage 1 scrutiny of the Bill over the course of eight meetings of the Committee between October and December 2022.
12. Alongside this programme of formal evidence gathering, the Committee will also undertake a programme of informal engagement to further inform its scrutiny of the Bill.

Today’s meeting

¹ [Published responses for National Care Service \(Scotland\) Bill \(Detailed\) - Scottish Parliament - Citizen Space](#)

² [National Care Service \(Scotland\) Bill - Your Views on the Bill \(parliament.scot\)](#)

13. At today's meeting, the Committee will take evidence from two panels of stakeholders. Both panels will focus on ethical commissioning and procurement and long-term sustainability of social care services.
14. Under the principles for a national care service as set out in the Bill, an overarching principle is that social care should be regarded as an investment in (rather than a cost to) society. This was a key recommendation from the Feeley Review of Adult Social Care. The second principle (1(b)) states that services should be financially stable to give people long-term security.
15. In Section 6 (e) of the Bill, under 'Strategic planning by the Scottish Ministers', as part of their duty to create a strategic plan if they are providing a service, Ministers would have to set out their ethical commissioning strategy in relation to the service in question. Care boards would also have to set this out in their strategic plans.
16. Section 10 of the Bill presents the 'Meaning of ethical commissioning strategy', stating that it should reflect the national care service principles in Chapter 1:

"References in this Chapter to a person's ethical commissioning strategy in relation to a service is to the person's strategy for ensuring that the person's arrangements for providing the service best reflect the National Care Service principles."
17. The [Policy Memorandum](#) accompanying the Bill highlights what ethical commissioning means:

"Ethical commissioning, in relation to social services, has a person-centred care first/human rights approach at its core, ensuring that strategies focus on high quality care. This includes Fair Work practices which encourage the development of a quality, sustainable, and appropriately valued work force; climate and circular economy considerations to support a just transition to net zero; financial transparency and commercial viability of any outsourced services; full involvement of people with living experiences throughout, putting the person at the centre of making the choice; and a shared accountability between all partners and stakeholders involved in delivery."

Clerks to the Committee

24 November 2022