

29 November 2022

Education, Children and Young People Committee
The Scottish Parliament
Edinburgh
EH99 1SP

Via email: ecyp.committee@parliament.scot

Dear Convener,

National Care Service (Scotland) Bill: Stage 1

Thank you for the opportunity to provide evidence to the Committee on 9th November 2022 regarding the proposed National Care Service (NCS). During this session I offered to follow up with further detail on a number of issues raised.

Pensions and Buildings

The Financial Memorandum to the NCS Bill states that there is the potential for up to 75,000 staff to be transferred out of Local Government; this would have considerable implications around pensions which do not appear to have been quantified, resulting in significant uncertainty for staff and their employers. These implications include impacts on:

- staff that may no longer be able to remain in the Local Government Pension Scheme,
- the scheme itself for remaining members, and
- recruitment and retention of staff if pensions are less generous than currently (or alternatively the cost of ensuring new arrangements are as attractive).

We understand that the Scottish Government has only recently sought to procure third-party advice regarding pensions, and intends to engage with the 11 local government pension schemes to understand the impact of these potential transfers of staff.

There are also a number of areas of uncertainty regarding assets, such as whether property would simply be transferred to new ownership or whether they would be purchased, and if so at market value. Such uncertainty creates a risk of disincentives for local authorities to invest in assets they believe they are unlikely to have possession of in the coming years and where there is no assurance that they will be adequately compensated.

It may also be extremely difficult to disaggregate those assets (including buildings, vehicles and equipment) whose ownership should be transferred to the NCS, from other council services or other organisations, following years of increasing integration and co-location necessitated both by previous social care reform and cuts to local authority budgets.

These issues are acknowledged in the Financial Memorandum as requiring further work. However, not only have we still not seen any such analysis since the Bill was published in June 2022, COSLA's view is that this work should have been done in advance of or alongside the Bill - with a Business Case produced setting out the rationale, costs, benefits and risks of the NCS - to enable meaningful scrutiny by Parliament, the public and affected organisations of all of the implications of the proposals.

Further to this, we understand from evidence given to committees by the Minister for Mental Wellbeing and Social Care and by Scottish Government officials that:

- the intention is for Care Boards to be a 'provider of last resort',
- that staff and assets will only be transferred if necessary to maintain services, and
- that specific arrangements will be made on an 'asset by asset' basis.

This only serves to exacerbate the lack of clarity and the uncertainty arising from the Bill in relation to pensions and assets, and to highlight the complexity involved in making such large-scale transfers out of Local Government.

Transitions

Transitions between child and adult services were also raised in the session. COSLA recently responded to the Committees call for views on Pam Duncan Glancy MSP Disabled Children and Young People (Transitions to Adulthood) (Scotland) Bill. COSLA officers are also in early discussions with Scottish Government regarding their Programme for Government commitment to develop a non-statutory National Transitions Strategy. With the lack of clarity around which services are in or out of the scope of a National Care Service, it is difficult to consider the implications of the Transitions Bill.

I thought it would be helpful to clarify the current arrangements, supported by the recent refresh of GIRFEC policy and practice materials. Young people who require support with post school transitions should be identified by at an early stage by those working closely with them and their family. They may already have a Child's Plan in place, in which case the transition process is supported by a Lead Professional to co-ordinate planning.

As noted in our response to the National Care Service Bill, the consequences of removing a large part of children's services will introduce fragmentation with key universal services such as early education for 2-18 years, housing and community services. There is a risk that this will have the consequence of fracturing current integrated working, which we acknowledge has its challenges largely as a result of resource pressures, but is ever evolving. Local authorities play an important coordinating role and moving children's services into the National Care Service risks disconnection from other support young people may need during the transition phase, and simply moves the challenge of transition into the National Care Service rather than resolving it.

Short Breaks for Carers

The Committee had expressed concern at the existing delivery and uptake of statutory short breaks for unpaid carers and young carers, as set out in the Carers (Scotland) Act 2016, suggesting that Section 38 of the Bill, which introduces a 'Right to Breaks' could help to address this. We recognise that carers must have good support in place to ensure a good quality of life and to look after their own emotional, physical, and social wellbeing. One aspect of this is having access to timely breaks from caring to help sustain their caring role and to

prevent more acute needs from arising. There are a number of challenges facing local authorities in fulfilling their current duties under the Carers Act, not least of which is a social care sector across both adult and children's services which has faced rising demand and people experiencing more complex needs – compounded by increasing public finance constraints and significant workforce challenges. Local authorities do not receive funding for replacement care for the cared for person, which undoubtedly impacts on the ability to provide short breaks.

While we support the principle of a Right to Breaks, it must be accompanied by the right scaffolding in place – adequate funding, a workforce ready and able to respond to demand, and the care provision required to ensure a 'break' is available. These are the conditions which would better enable local authorities to facilitate access to breaks for young and unpaid carers.

It is critical that young carers' needs and views are fully understood and taken into account in the design and delivery of a right to breaks (and wider aspects of support for unpaid carers within the National Care Service) and further clarity is required on how this will be achieved.

Foster and Kinship Care Allowances

The Committee also asked about foster and kinship care allowances, and I understand that this was raised at your meeting on 23rd November 2022 with the Minister for Children and Young People and Minister for Mental Wellbeing and Social Care. COSLA continues to engage with Scottish Government on their commitment to a "Scottish Recommended Allowance" which was restated in the Promise Implementation Plan. COSLA have also continued to work with Social Work Scotland and Local Government Directors of Finance on this.

In the meeting on 23rd November, Mr Stewart noted that information on allowances paid by local authorities was not held centrally, however Scottish Government officials had previously shared with COSLA officers costings towards a Scottish Recommended Allowance which were based on current rates paid by each local authority. This did not take in to account all other payments made to foster or kinship carers (such as for birthdays and holidays) simply the core allowance.

Based on these figures shared by Scottish Government, COSLA officers worked with Directors of Finance to consider the funding required to ensure an equitable distribution methodology which allowed for the Scottish Recommended Allowance, or the current Local Authority rate (whichever was higher) to be paid to foster and kinship carers. These calculations, which were shared with Scottish Government most recently in October, showed the quantum required to deliver the Scottish Recommended Allowance is likely be around £25m.

Given the principle agreed between Scottish Government and Local Government that any new national policies be fully funded, a policy which leaves any council with insufficient funds to implement the policy, would not be acceptable. In addition, in order for it to be agreed, consideration would need to be given to ongoing annual inflationary uplift.

Local Government is committed to supporting all children and young people, and their families and carers, and it is important that the commitment to the Scottish Recommended Allowance does not impact on the other vital services and supports that children and their families need.

If you have any further questions officers would be happy to provide further information.

Yours sincerely,

Cllr Tony Buchanan
COSLA Children and Young People Spokesperson