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Dear Convener

### **National Care Service (Scotland) Bill**

Following RCN Scotland's evidence to the Committee on 24 September, I am writing to share the ways in which RCN Scotland would like to see the National Care Service (NCS) Bill strengthened. This follows our letter to the Committee on 4 October which focused on ethical commissioning in response to a question from Paul Sweeney MSP. We are aware that the Scottish government's proposed amendments may change somewhat prior to lodging, which has made considering the changes we'd like to see extremely challenging. It is also our understanding that some of the changes we'd like to see to the Bill cannot be pursued at stage 2 as they relate to sections of the Bill that will be substantially changed by the Scottish government's amendments. We are, however, committed to continuing to engage in the legislative process should the Scottish government continue to press ahead with the Bill. We are calling on members of the Committee to consider the following issues and suggestions, although appreciate that not all of these can be pursued at stage 2:

#### **1. Crossover with the Health and Care (Staffing) (Scotland) Act**

**The issue:** The NCS Bill should make clear that the safe staffing duties introduced by the Health and Care (Staffing) (Scotland) Act 2019 apply to all services within the scope of the NCS. The 2019 Act sets out clear duties on workforce planning and ensuring nursing supply for NHS boards and Ministers and we want this Bill to ensure these duties are not lost in any way by the creation of the NCS. There needs to be equity in terms of safe staffing responsibilities between NHS and NCS services. However, there is no mention of the 2019 Act in the NCS Bill.

**RCN Scotland call:** In response to our concerns that there is no mention of the 2019 Act in the NCS Bill, Scottish government officials had previously indicated to us that amendments would be brought forward to implement the technical aspect of ensuring crossover between the 2019 Act and the NCS Bill; essentially, we would like to ensure all the responsibilities and duties established by the 2019 Act continue to apply once the NCS is created. The package of draft amendments shared with the Committee doesn't seem to include anything

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on this. We have written to the Scottish government, to ask if it has looked at this issue and whether it still intends to ensure this crossover, and we will continue to engage with Scottish government officials on this.

## 2. Principles for health and care staffing

**The issue:** The Scottish government's objective of improving the quality and consistency of services cannot be achieved without addressing the workforce shortages, and recruitment and retention challenges, facing the social care and community health sectors. The Bill needs to embed safe staffing within the NCS to ensure safe, high-quality services that reflect increasing clinical need among patients and service users.

### **RCN Scotland calls:**

- We are calling for the NCS principles (at section 1 of the Bill) to include reference to the guiding principles for health and care staffing as set out in section 1 of the Health and Care (Staffing) (Scotland) Act 2019. The Scottish government's draft amendments include inserting *section 1(ea): services provided by the NCS are to protect and improve the safety of the persons to whom the services are provided*. We believe this should be strengthened by referring to the principles, already agreed by the Scottish Parliament and set out in the 2019 Act, which establish the main purpose of staffing being the provision of safe, high-quality services and ensuring the best health care or care outcomes for service users. The principles for staffing in the 2019 Act also highlight the importance of staff wellbeing, respecting the dignity and rights of service users and multi-disciplinary working.
- The Bill should make clear that a function of the NCS Board is to scrutinise and ensure safe staffing in NCS services.

## 3. Workforce planning

**The issue:** Robust workforce planning requirements are needed to ensure NCS services have the right staff, with the right skills, to deliver high quality, safe services. The Bill and proposed Scottish government amendments do not make clear where responsibility for workforce planning sits. The Bill should also embed workforce planning and safe staffing into the National Care Service Strategy.

### **RCN Scotland calls:**

- The responsibilities and accountability for workforce planning need to be more clearly articulated in relation to the shared accountability arrangements and we would like to see the Scottish government address this in its amendments.
- We are calling for the Bill to make clear that the NCS Strategy will set out:
  - a national workforce plan,
  - action that Scottish Ministers propose to take, and consider that the NCS institutions should take, to address workforce recruitment and retention challenges.
- The Bill should introduce a duty on Ministers to report to the Scottish Parliament annually on the systems in place for assessing and meeting the workforce needs of the

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NCS, including current and forecast workforce requirements. Part 3 section 9 of the Health and Care (Staffing) (Scotland) Act 2019 requires Ministers to report annually on staffing in care services, this should be widened to include NCS services more broadly. We understand that this could be achieved either via a standalone provision in the NCS Bill or by amending the 2019 Act.

#### 4. Nursing Leadership

**The issue:** Nursing expertise is crucial in the strategic leadership of the NCS and the Bill should embed this. The nursing workforce is critical in the provision of safe, effective, high quality compassionate care. We know that a lack of nursing leadership and relevant support structures within organisations impacts on safety, quality of care and patient mortality, as well as the mental health and general wellbeing of the nursing workforce.

##### **RCN Scotland calls:**

- We are calling for an amendment that incorporates statutory senior nurse leadership on the NCS Board, with full board member status. We recognise that there will be many voices calling for representation on the board. However, we are clear that nursing expertise is crucial in the strategic leadership of the NCS, particularly given increasing clinical need within social care settings and the fact that nursing is likely to be the largest profession in the NCS workforce.
- We are also calling for an amendment to the Public Bodies (Joint Working) (Integration Joint Boards) (Scotland) Order 2014 to give Integration Authority nurse board members full board member status. As the intention is for the NCS to be delivered by reforming Integration Authorities, we believe there is an opportunity to strengthen the voice of nursing within the integration landscape. In our view, the distinction between voting members and professional advisers within integration authorities needs to be addressed to better embed the professional expertise required to deliver safe, high quality and efficient care.

#### 5. Fair work

**The issue:** Scottish government, integration authorities and employers need to pay attention to factors that will aid recruitment and retention of staff in the social care sector. Employment terms and working conditions are key factors in recruiting and retaining nursing staff. Too many good nursing staff are leaving, while potential recruits are reluctant to join the profession and are choosing other careers. We remain concerned that the Bill doesn't go far enough on fair work, nor does it set out how the fair work principle will be enforced.

##### **RCN Scotland calls:**

- A clear and comprehensive definition of "fair work" should be included within the Bill.
- The NCS strategy should detail how fair work principles will be incorporated within ethical commissioning and strategic planning processes.
- The Bill should make clear how fair work principles will be applied consistently across all NCS services and include detail on how application of fair work principles will be enforced in practice.

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However, we are also clear that the delivery of fair work is vital for tackling the workforce crisis within social care and cannot wait until the creation of an NCS. We believe significant progress can be made on progressing the fair work agenda out with the Bill and we would like to see the Scottish government move much more swiftly to establish a sectoral pay bargaining system for social care. Nursing staff working within social care services should have comparable pay, terms and conditions (including sick pay) to those working in the NHS. Achieving parity is vital for tackling the workforce crisis within the sector.

The RCN is calling for minimum standards for employment terms and conditions for all the nursing workforce in any organisation funded by the public purse. Fair pay, terms and conditions – including pay scales, job evaluation schemes and equitable policies for staff – are all incorporated in our new [RCN Employment Standards for Independent Health and Social Care Sectors](#). These new standards set out what the RCN believes nursing staff should expect when they are employed to deliver care in the independent health and social care sectors.

I hope this information is helpful and we look forward to continuing to engage with members of the Committee ahead of stage 2 proceedings.

Yours sincerely,



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Executive Director

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