

Call for Views on the National Care Services (Scotland) Bill (Detailed)

General questions

The Policy Memorandum accompanying the Bill describes its purpose as being “to improve the quality and consistency of social work and social care services in Scotland”. Will the Bill, as introduced, be successful in achieving this purpose? If not, why not?

As we explain in more detail in our response to subsequent questions, the Royal College of Psychiatrists in Scotland believes that, if designed and delivered properly, a National Care Service (NCS) for Scotland has the potential to improve community mental health care. However, successfully transferring community health functions to the institutions which comprise the NCS will require addressing key challenges, particularly those that have emerged around previous integration, which we have outlined in our response to the consultation’s final section on specific provisions.

While we welcome its ambitions and support engagement as the NCS develops, it is difficult - at this stage - to say with absolute certainty that the Bill will succeed in delivering improvements for the quality and consistency of social work and social care services in Scotland. This is due to the lack of detail within the Bill and the fact that important aspects of the NCS will be developed by future secondary legislation, which concerns us greatly.

Is the Bill the best way to improve the quality and consistency of social work and social care services? If not, what alternative approach should be taken?

As above, the lack of detail within the Bill makes it difficult for the College to confidently conclude whether the Bill, or an alternative approach, is the best way to improve the quality and consistency of social work and social services. We do, however, welcome the aspirations of the NCS and will engage closely with the secondary legislation related to mental health services.

Are there any specific aspects of the Bill which you disagree with or that you would like to see amended?

No.

Is there anything additional you would like to see included in the Bill and is anything missing?

The Royal College of Psychiatrists in Scotland welcomes that the Bill requires a further consultation by the Scottish Government on whether children’s and justice services should be transferred to the NCS.

Mental health services have a unique position in straddling inpatient and community provision, with a need for seamless transition across both areas. Given

this position, we strongly believe that the Bill should be amended to include a provision for a similar consultation to be undertaken ahead of any proposed changes to mental health services under the NCS.

The Scottish Government proposes that the details of many aspects of the proposed National Care Service will be outlined in future secondary legislation rather than being included in the Bill itself. Do you have any comments on this approach? Are there any aspects of the Bill where you would like to have seen more detail in the Bill itself?

It is difficult for our members to comment on how the Bill could impact mental health services beyond aspirations.

However, we welcome the Scottish Government's intention to work with stakeholders on the design of the NCS, which will shape the content of future secondary legislation.

If a further consultation on changes to mental health services is undertaken, which we have suggested in our answer to the previous question, the use of secondary legislation could be a valuable approach in ensuring that the NCS is co-designed with the right balance of lived experience and professional experience.

The Bill proposes to give Scottish Ministers powers to transfer a broad range of social care, social work and community health functions to the National Care Service using future secondary legislation. Do you have any views about the services that may or may not be included in the National Care Service, either now or in the future?

The Royal College of Psychiatrists in Scotland believes that there is potential for the NCS to have a positive impact on the care delivered in the community.

If it were to be delivered successfully, care under the NCS should make mental health care more timely, consistent, equitable, fair, and high-quality, as outlined in the Policy Memorandum for this Bill.

Specifically, the creation of the NCS has the potential to:

- **Improve delayed discharges:** Our members' experience is that delayed discharges are usually due to the appropriate care being unavailable in the community, so we support the NCS's ambition to improve community services. Most recently (August 2022), a BBC investigation found cases of patients with Learning Difficulties and Autism being kept in secure hospitals and psychiatric wards for much longer than necessary, often due to the required care not being available in the community. In 2000, the Scottish Government had established the right for everyone with a Learning Disorder to live in their own homes and communities (*The Same as You?* Report). The NCS should create duties on community providers to provide timely and appropriate care packages, removing the barriers

which result in inappropriate long hospital stays for many individuals.

- **Decrease preventable admissions:** Much like in physical health, specialist care will always be required in some circumstances and admissions to a specialist setting will be necessary to provide essential care and treatment. However, by improving community care under the NCS, the majority of individuals should be managed in the community in a timely manner, preventing escalation and the need for hospital admission in the absence of any other suitable care and allowing specialist services sufficient capacity to provide timely care and treatment for those who do require it.
- **Inappropriate out of area placements:** Community should be defined as the availability and provision of appropriate care and treatment close to an individual's home, family and support. In rare cases, particularly specialist, out of area care may be the best choice for the patient, however, out of area care is often inappropriate to the patient's needs. At present, people are frequently transferred hundreds of miles from their homes to access appropriate care, which is highly detrimental to the individual and is a parity issue – acute physical health presentations would not be expected to travel across the country to receive appropriate care.

Consideration should be given to what defines 'community', for example, the expectation of local care for an individual based in the Western Isles compared to someone living in the central belt, and how can care be delivered appropriately.

Do you have any general comments on financial implications of the Bill and the proposed creation of a National Care Service for the long-term funding of social care, social work and community healthcare?

We would urge recognition of the complex individuals who present with high risks to themselves and occasionally to others if care is not appropriately provided, who are currently cared for in the community, which can often be costly and resource intensive. There is a risk that by prioritising prevention and lower-cost interventions, more vulnerable individuals' care may be deprioritised.

We would urge that sufficient funding and resources are provided to the most vulnerable patients and where the needs are greatest.

Do you have any comments on the contents and conclusions of these impact assessments or about the potential impact of the Bill on specific groups or sectors?

Patients with a mental illness or disorder, who would be considered as having a disability, are a central group that will be impacted by the Bill and secondary

legislation. We urge that the Health, Social Care and Sport Committee considers the specific needs of this group when scrutinising the Bill.

If delivered successfully, the NCS has the potential to result in mental health services having greater parity with physical health services. In our response to question 6, we highlighted the potential benefits of the NCS on community services and referenced how, if delivered successfully, it should address barriers and delays, allow specialist care to be delivered in a more appropriate and timely manner.

Reducing the circumstances in which a patient is admitted to an NHS Health Board outside of their own would improve the parity of mental healthcare with physical healthcare and improve the care that patients receive.

Furthermore, it should be acknowledged that those with a mental illness or mental health conditions are not a single group. Different diagnoses will require different needs and care. The delivery of any mental health service within the NCS should reflect this.

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?

Questions on specific provisions

There is also the option to give your views on specific provisions in the Bill. There is no obligation to complete this section of the call for views and respondents can choose to restrict their comments to certain sections of the Bill.

In providing comments on specific sections of the Bill, please consider:

- **Whether you agree with provisions being proposed?**
- **Whether there is anything important missing from these sections of the Bill?**
- **Whether there is anything you would disagree with or there are amendments you would wish to propose to these sections of the Bill?**
- **Whether an alternative approach would be preferable?**

Sections 27 and 28 of Chapter 6 (Scottish Ministers provided with the power to, by regulations, transfer functions from local authorities and NHS institutions to themselves or care boards) are particularly relevant to our members.

The lack of detail within the Bill made it difficult for Members to comment, with certainty, on how this would impact mental health services. However, the College believes that Sections 27 and 28 of the Bill could, if delivered properly:

- Reduce delayed discharges by improving the capacity of community care and duties on providers.
- Provide prompt care needs with the same parity of providing health needs through the duty of Scottish Ministers to promote a care service designed to secure improvement in the wellbeing of the people of Scotland and to put and keep in place arrangements for monitoring and evaluating NCS services.
- Provide appropriate community interventions locally so people are not admitted to care facilities far from family and their support networks, with Scottish Ministers responsible for approving the draft strategic plans of Care Boards and provided with the powers to intervene where necessary in Chapter 4.
- Have a workforce valued for their skills and expertise, through the explicit commitment within the Bill to fair work for the people who work within the proposed NCS and on its behalf and ensuring that this workforce is valued for the work that they do through fair working practices.

Members also raised some of the challenges that Sections 27 and 28 could face:

- **Current context:** These changes will take place within the context of a system severely impacted by the Covid-19 pandemic, which may make it difficult to introduce something as significant as the NCS and which could destabilise the system further.
- **Workforce:** The Covid-19 pandemic has had a severely negative impact on the mental health workforce and the health and social care workforce overall – especially its morale. The recruitment and retention of staff could

be another challenge, with the uncertainties around re-organisation limiting recruitment. An adequately staffed and safe workforce is crucial to ensuring a successful NCS and delivering the benefits for mental health services that we have outlined.

- **Issues and lessons from previous integration:** Some Members have had negative experiences with Integration Joint Boards (IJBs) and are therefore wary of the risks that integration can create.
- **Defining 'community':** While the Bill only provides Scottish Ministers with the powers to transfer functions from NHS institutions, rather than the detail of what services will be included, we would urge that 'community health' is defined ahead of the development of any secondary legislation. It was felt that there is no clear definition on what is meant by 'community' mental health services and what it covers.
- **Acknowledging the reality of community care:** Community care should not only be thought of in terms of prevention, early intervention (it should be noted that common language is necessary, as early intervention in the context of specialist mental health services means something very different to that in the context of public health and health improvement), 'mild' conditions, and general mental wellbeing. Community care is much broader than this, with many high-risk, serious, and complex cases also cared for in the community.
- **Importance of getting other areas of the NCS right:** There are major concerns that if the long-standing issues within social care (such as underfunding, recruitment challenges, and lack of ties with healthcare) are not properly addressed by the NCS, or are made worse, this would deepen the current deficit where care is picked up by healthcare services.