

National Care Service Bill - Call for views

Response to Call for Views

AUDITOR GENERAL 
ACCOUNTS COMMISSION 
 AUDIT SCOTLAND

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1. Introduction

- 1.** Audit Scotland, on behalf of the Auditor General for Scotland and the Accounts Commission, welcomes the opportunity to respond to this [call for views on the proposed stage 2 amendments to the National Care Service \(Scotland\) Bill](#).
- 2.** The Auditor General for Scotland (AGS) is an independent crown appointment, made on the recommendation of the Scottish Parliament, to audit the Scottish Government, NHS and other bodies and report to Parliament on their financial health and performance.
- 3.** The Accounts Commission is an independent public body appointed by Scottish ministers to hold local government to account and help them improve by reporting to the public on their performance. Amongst its responsibilities, the Accounts Commission scrutinises Annual Audit Reports for all local authorities including Integration Joint Boards and reports publicly on their financial management, their performance and their demonstration of their duty of Best Value. The Accounts Commission. The Controller of Audit is an independent post established by statute, with powers to report directly to the Commission on the audit of local government.
- 4.** Audit Scotland is a statutory body established under the Public Finance and Accountability (Scotland) Act 2000. It is Scotland's national public sector audit agency which provides the AGS and the Accounts Commission with the services they need to carry out their duties.
- 5.** Audit Scotland, the Auditor General and the Accounts Commission report on whether public money is spent properly and how effectively and efficiently it is spent. Our independent role as public auditors is maintained by not commenting on policy setting. On matters that we have not yet undertaken audit work or matters of policy, our responses to questions may be limited or nil.
- 6.** We have drawn on relevant audit work to support our response. All of our publications are available on the [Audit Scotland's website](#).

2. Response to call for views

NATIONAL CARE SERVICE STRATEGY

Question 1 What is your view of the proposed National Care service strategy (see proposed new sections 1A to 1E)?

- Strongly support
- **Tend to support**
- Partly support and partly oppose
- Tend to oppose
- Strongly oppose

7. Undecided / no opinion

8. We welcome the proposed introduction of a national strategy. A sector wide common strategy would be beneficial in providing all those involved in delivering Community Health and Social Care in Scotland clarity on the common vision and priorities that need to be addressed collectively to improve outcomes for the people of Scotland and underpin the sustainability of the sector. The Committee may wish to note:

- The Accounts Commission commented in its [Integration Joint Board Finance and Performance report July 2024](#) (IJB 2024 report), that ‘whole-system collaborative working is needed as part of a clear national strategy for health and social care that will promote improved outcomes across Scotland but reflects the need to respond to local priorities’.
- The Auditor General also commented this year in his [NHS Scotland 2023](#) report that ‘there are a range of strategies, plans and policies in place for the future delivery of healthcare, but no overall vision. To shift from recovery to reform, the Scottish Government needs to lead on the development of a clear national strategy for health and social care. It should include investment in preventative measures and put patients at the centre of future services.’

9. It will be important that the strategy links appropriately with other national strategies and programmes, recognising the interdependency of community health and social care with many other aspects of provision to the public, such as housing, policing, education and welfare.

10. We welcome that the proposals reference the need for the strategy to reflect the National Care Service (NCS) principles and that the strategy is

required to be reviewed at least every five years. We also welcome that the proposed amendments identify the accountability mechanism for the strategy.

11. It will be critical for a NCS Board to ensure that it receives a high standard of data to inform its monitoring, scrutiny, planning and decision making against the strategy. Work needs to be progressed now to ensure that there is improvement to the range and quality of national data available to a shadow board and the Board once established. We have commented on this issue in relevant reports:

- In the Accounts Commission's [IJB 2024 report](#), it comments that 'data quality and availability is insufficient to fully assess the performance of IJBs and inform how to improve outcomes for people who use services with a lack of joined up data sharing. However, available national indicators show a general decline in performance and outcomes'.
- This concern was also evident in earlier joint work with the Auditor General. In the 2018 [Health and social care integration: update on progress](#), the Auditor General and Accounts Commission, recommended that the Scottish Government, COSLA, councils, NHS boards and Integration Authorities work together to 'review and improve the data and intelligence needed to inform integration and to demonstrate improved outcomes in the future'.
- In our 2021 joint [Social Care Briefing](#) we identified that 'an inability or unwillingness to share information, along with a lack of relevant data, means that there are major gaps in the information needed to inform improvements in social care'. The briefing also refers to 'a lack of key data, and ineffective use of existing data, to inform decision-making.'

12. The Accounts Commission acknowledge in the [IJB 2024 report](#) that 'work is being carried out by the Scottish Government and Public Health Scotland to improve data and allow the comparison of performance including the development of the Care & Wellbeing dashboard' but '.... the system is still in its early stages of development and use'.

NATIONAL CARE SERVICE BOARD

Question 2 What is your view of the proposal to create a National Care Service Board, and the provisions about the role and functions of the Board (see in particular new Chapter 1B of Part 1, and new schedule 2C)?

- Strongly support
- Tend to support
- Partly support and partly oppose
- Tend to oppose
- Strongly oppose
- Undecided / **no opinion**

13. The Committee may wish to note that in our [response to the previous call for views at Stage 1 of the Bill](#), we commented that the current model of governance for Integration Authorities is ‘complicated, with decisions made at Integration Authority, council and health board levels. We have found that cultural differences between partner organisations are a barrier to achieving collaborative working. Partner organisations work in very different ways, and this can result in a lack of trust and understanding of each other’s working practices and business pressures. There can also be a tendency to put the organisation first when alternative actions would benefit partners’. This suggests that, if a NCS is to be established and this involves shared accountability, a national level arrangement for oversight and coordination, such as a board, is needed.

14. The understandably limited detail in this proposal for primary legislation does not yet provide sufficient information to consider how effectively these arrangements might function. As we reference above, we have previously commented on the cultural challenges within the governance model for the current IJBs. The importance of collaborative leadership and cultural change cannot be underestimated, and this is where we have seen major reform fail in the past. Although we agree a board or similar national oversight is needed, it is not clear that the proposed model addresses this challenge. Consideration of how best to mitigate this will need to be made in establishing the new Board.

15. We welcome the proposal to include members with lived experience of using services, providing services and caring.

16. The general roles and functions of the Board described in the draft amendments reflect the purpose set out.

17. In chapter 1B 4b and 1C 26b it may be helpful to clarify if ‘local authority’ in these clauses will include IJBs/NCS Local Boards as well as councils. It would seem appropriate for them to receive a copy of the corporate plan at the same time as councils and NHS Boards and to have the opportunity to comment on additional functions being conferred on the national Board.

Creation of local boards and removal of other integration models

Question 3. What is your view of the proposal to establish National Care Service local boards and to remove other integration models (see in particular Chapter 1A of Part 1, and new schedules 2A and 2B)?

- Strongly support
- Tend to support
- Partly support and partly oppose
- Tend to oppose
- Strongly oppose
- Undecided / **no opinion**

18. The proposals to establish National Care Service Local Boards, appears to bring little change to the governance for the current 30 IJBs. The primary changes are the relationship with a national board and the aim to establish consistency of scope of services and functions across all of the local boards.

19. We have commented across a number of reports on issues that impact on the effectiveness of the current IJB arrangements that will need consideration in reforming these into National Care Service Local Boards. We have commented on the complexity and impact of the current funding model, clarity and understanding of the governance and accountability arrangements and cultural challenges related to the model. It is not clear how the proposed amendments to the Bill and to the Public Bodies (Joint Working) (Scotland) Act 2014 will impact on these issues. Effective leadership, at all levels, and collaborative engagement of key stakeholders will be critical. We highlight under Question 4, Monitoring improvement, six themes for consideration in improvement relevant to the reform of IJBs.

20. We highlight below, under Direct Funding, that we have found that the funding model has not aided a shift in the balance of care from acute services toward preventative and community-based services. In the [IJB 2024 report](#), we comment on the lack of a shift in the balance of spend, highlighting that ‘the percentage of expenditure on institutional and community-based Adult Social Care services has largely remained static’.

21. In the [IJB 2024 report](#), we also comment that the funding arrangements also affect budget planning. Twenty-five out of thirty IJBs agreed their 2023/24 budget before the start of the financial year. Delays in the agreement of savings plans and uncertainty around NHS partner funding were the most common reasons for IJBs not agreeing a balanced budgets before the start of the financial year. IJBs do not always receive notification of funding allocations from

NHS boards before the start of the financial year. This adversely affects the IJBs' ability to plan expenditure.

22. We reported in our [Health and social care integration: update of progress report in 2018](#), that the current model of governance is complicated, with decisions made at IJB, council and health board level. In our [response to the Scottish Government's 2021 consultation](#), we highlighted that learning from the integration of health and social care has shown that a 'clear governance structure where all partners agree responsibility and accountability is vital. There are difficulties in understanding how the operational responsibility aspect works in practice. Members of integration authorities' leadership teams have differing views about governance, especially clinical governance, and roles and responsibilities'.

23. It is important that the cultural aspects are given equal attention. As we have referred to in response to question 2 above, responding to cultural differences will require strong and effective leadership that supports improvement.

24. There continue to be challenges at a local level in maintaining effective leadership. In the [IJB report 2024](#) we highlight that 'a notable turnover of senior leadership positions since the start of health and social care integration continues to be a concern. Half of all IJBs experienced turnover in either their chief officer and/or chief finance officer posts in the last two years. ... Instability in leadership teams has the potential to disrupt strategic planning at a time when difficult and significant decisions need to be made. It can affect the culture of an organisation at a time when the workforce is under pressure'. This remains an issue for consideration in developing the arrangements for the NCS.

25. We have not undertaken work which has compared the effectiveness of the lead partner model over the IJB model. We therefore do not wish to comment on the proposal to remove other integration models in the Stage 2 draft amendments.

Monitoring and improvement and commissioning

4. What is your view of the proposed new provisions on monitoring and improvement (see new sections 12K and 12L) and on commissioning (see new section 12M)?

Monitoring and improvement

- Strongly support
- **Tend to support**
- Partly support and partly oppose
- Tend to oppose
- Strongly oppose
- Undecided / no opinion

26. The Accounts Commission and the Auditor General welcome the proposal to introduce a coordinated approach to monitoring and promoting improvement across the sector. Key learning points from work we have undertaken on other significant pieces of reform include the importance of good baseline information and a clear plan for measuring performance and supporting improvement.

27. The Accounts Commission and AGS set out in their [Social care briefing \(January 2022\)](#) that, ‘despite efforts made by the Scottish Government, Integration Authorities, NHS, local government and their partners in recent years, the pace of change has been slow. The performance of current services is variable and there are significant service areas that are not meeting expectations’. The Accounts Commission’s [IJB report](#), published in July 2024, highlighted concern about a general decline in performance and outcomes for people using social care and primary and community healthcare services. It also highlights that there are ‘... examples of IJBs trying to work in new and different ways, but there is a lack of collaboration and systematic shared learning on improvement activities’. We therefore welcome the inclusion of a structured approach to planning support and improvement with the reference to a framework at 12L.

28. Important lessons remain for improvement activity from our [2018 Health and social care integration report](#). Our work identified six key areas that, if addressed, should lead to broader improvements. These remain significant for consideration at a national and local board level. They are:

- collaborative leadership and building relationships
- integrated finance and financial planning
- effective strategic planning for improvement
- agreed governance and accountability arrangements
- ability and willingness to share information
- meaningful and sustained engagement.

29. We welcome that the proposals recognise the need to consider local priorities and issues, by including the reference at 12K 2b to having regard to whether a service is being provided in a way that is consistent with the local care board strategy.

30. We also welcome that the proposals recognise the need to ensure the arrangements complement and do not duplicate the work of HIS, PHS or the Care Inspectorate and that Board is to make a support and improvement framework public.

Commissioning

- Strongly support
- Tend to support
- Partly support and partly oppose

- Tend to oppose
- Strongly oppose
- Undecided / **no opinion**

31. The content of 12M appears to provide the Board with the ability to procure services on behalf of the other bodies listed and to appoint another party to manage this function on its behalf. We have no specific comments on this matter other than to underline the importance of robust arrangements, that we would anticipate in secondary legislation, to support this function.

National Chief Social Work Adviser and the National Social Work Agency

5. What is your view of the proposed new provisions to designate a National Chief Social Work Adviser and for the creation of a National Social Work Agency (see new section 26A)?

- Strongly support
- **Tend to support**
- Partly support and partly oppose
- Tend to oppose
- Strongly oppose
- Undecided / no opinion

32. The Accounts Commission and the Auditor General recognise that Social Work and Social Workers have a critical role in the function of community health and social care. They therefore welcome the proposal for a National Chief Social Work Advisor, particularly given the proposals for a national strategy and for potential Ministerial direction to the national and local boards. It will be important for Ministers to have the ongoing guidance of a Social Work professional in setting and review of such strategic direction and review of the NCS principles.

Amendments to the Public Bodies (Joint Working) (Scotland) Act 2014

The Minister's covering letter states:

"We intend to improve local delivery through reform of integration authorities. Integration authorities are existing bodies established under the Public Bodies (Joint Working) (Scotland) Act 2014. Local reform will require some new provisions in this Bill amending the 2014 Act, as well as the exercise of existing powers under that Act."

6. What is your view of the proposed amendments to the Public Bodies (Joint Working) (Scotland) Act 2014, as set out in the marked up version of the Act?

- Strongly support
- Tend to support
- Partly support and partly oppose
- Tend to oppose
- Strongly oppose
- Undecided / **no opinion**

33. The amendments clearly reflect the outlined aims to focus on one integration model. It is welcomed that the proposals retain flexibility around how integration schemes are arranged where there are multiple local authorities partnered with a single NHS Board. We also welcome the retention of references in the Act, of the need to be cognisant of other schemes that may impact on each other.

Areas of further work

The Minister's covering letter states:

"There remain a small number of areas where further work is needed to confirm which legislative approach would best deliver the intended changes and strengthen their future practical implementation. Those areas are:

- "Direct funding
- "Inclusion of children's services
- "Inclusion of Justice Social Work
- "Anne's Law

"The intention of this approach is to free up COSLA and local government colleagues from further negotiation on these issues and allow them to focus specifically on the mission to reduce Delayed Discharges in the coming weeks and months."

7. What is your view of the Scottish Government's proposed approach to addressing the areas of further work outlined in the Minister's covering letter?

Direct funding

- Strongly support
- **Tend to support**
- Partly support and partly oppose
- Tend to oppose

- Strongly oppose
- Undecided / no opinion

Inclusion of children's services

- Strongly support
- Tend to support
- Partly support and partly oppose
- Tend to oppose
- Strongly oppose
- Undecided / **no opinion**

Inclusion of Justice Social Work

- Strongly support
- Tend to support
- Partly support and partly oppose
- Tend to oppose
- Strongly oppose
- Undecided / **no opinion**

Anne's Law

Anne's Law is a piece of planned Scottish legislation which is intended to strengthen the rights of people living in adult and older people's care homes to see and spend time with the people who are important to them, even in the event of an outbreak of infectious disease.

- Strongly support
- Tend to support
- Partly support and partly oppose
- Tend to oppose
- Strongly oppose
- Undecided / **no opinion**

Direct Funding

34. We welcome the consideration of approaches to reform the funding arrangements. In a number of reports, we have highlighted the challenges for the current integration arrangements with the current funding model.

- In our [2018 Health and Social Care integration 2018 report](#), we highlight that establishing IJBs was intended to ‘help shift resources away from the acute hospital system towards preventative and community-based services. However, there is still a lack of agreement about whether this is achievable in practice – or whether rising demand for hospital care means that more resource is needed across the system’.
- We also commented in the [2018 report](#), in relation to ‘set-aside’ budgets, that the ‘complexities around accurately preparing set-aside budgets has presented challenges to fulfilling this element of the Act... The main problem is a lack of common understanding and agreement on how to identify the set-aside budget and shared agreement on how to implement this aspect of the legislation.’
- In the [IJB report 2024](#) we comment that ‘the percentage of expenditure on institutional and community-based Adult Social Care services has largely remained static. ... Indicators tracking the balance of care and provision of services in the community have largely shown an increase in the number of individuals receiving care at home or in the community. However, these changes are marginal when viewed over the period since the inception of health and social care integration in 2015’.
- In the [IJB report 2024](#) we also comment on the delays in the agreement of savings plans and uncertainty around NHS partner funding being ‘the most common reasons for IJBs not agreeing a balanced budgets before the start of the financial year’ and ‘IJBs do not always receive notification of funding allocations from NHS boards before the start of the financial year. This adversely affects the IJBs’ ability to plan expenditure, *and* can cause delays to decision-making...’

35. We recognise the complex nature of the funding arrangements and support the investment of time in detailed considerations, to ensure that changes to the model are appropriate and improve on current arrangements.

Inclusion of children’s services

36. Whether or not to include children’s services in the NCS is a policy decision for the Scottish Government. Our role as public auditors is not to be involved in setting policy or commenting on the merits of policies.

37. If children’s services are to be included in the scope of the NCS, we concur with the rationale for further consideration being needed. Careful planning is needed in managing any interfaces between children’s services included and others that are not, for example how children’s social work and education services might work together. This is particularly relevant given the increasing expectation for services to work closely together to focus on the needs of the child, such as in response to GIRFEC and The Promise.

Inclusion of Justice Social Work

38. Whether or not to include Justice Social Work in the NCS is a policy decision for the Scottish Government.

39. The Committee may wish to note that the Auditor General considered community justice services in his 2021 Briefing [Sustainable Alternatives to Custody](#). This concluded that there are a number of issues the Scottish Government will need to consider and understand in taking forward any revised approach to community justice. These include, amongst others, ‘whether all stakeholders involved in the planning and delivery of community justice have a shared understanding of lines of accountability and areas of responsibility...The basis on which funding allocations to community justice partnerships are determined’ and ‘whether the data being collected to assess outcomes is appropriate, including whether the data needed is both available and allows comparison between areas’.

40. Whether justice social work is or is not included in the NCS the issues outlined above will need consideration with the establishment of a NCS. If it is included in the scope, clarity about roles and responsibilities, lines of accountability, funding arrangements, data management and information sharing, will all be important issues to address between community justice services and justice social work arrangements within a NCS. If it is not included these same issues will need to be considered in relation to the interface between justice social work within community justice services and wider social work within a NCS.

Anne’s Law

41. This is not an issue we have undertaken any audit work on and have no comment to make.

Draft National Care Service Charter

As part of the package shared with the Committee, the Scottish Government has provided an update on co-design of the NCS Charter and an initial draft of the National Care Service Charter.

8. What is your view of the initial draft of the National Care Service Charter?

- **Strongly support**
- Tend to support
- Partly support and partly oppose
- Tend to oppose
- Strongly oppose
- Undecided / no opinion

42. Both the AGS and the Accounts Commission have highlighted the importance of involving stakeholders, including those that use services, in decisions about the priorities, changes to, and the design of public services. Our reports have consistently highlighted the importance of the user's perspective on what good-quality care looks like. We welcome that the charter has been and continues to be developed through a detailed co-design approach.

Other comments

9. Do you have any other comments on the Scottish Government's proposed draft Stage 2 amendments to the National Care Service Bill?

43. Where functions are not included in the NCS but have a direct impact on the service user groups, it will be important to establish effective interfaces between those services and the NCS. The health and wellbeing of individuals, and those around them, are affected by many factors, such as housing, poverty, education and lifestyle choices. In planning and developing health and care services these inter-related factors need to be considered and this requires working closely with other services.

44. As well as clarifying and detailing the proposed governance arrangements at a national and local level, setting out the planned role, governance and arrangements for other directly affected bodies would be beneficial. For example, it would be helpful to set out how alcohol and drug services and ADPs will be encompassed in the NCS arrangements.

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Response to Call for Views

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