

National Care Service Bill - Call for views

Response to Call for Views

ACCOUNTS COMMISSION 

AUDITOR GENERAL 

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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 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.** 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

GENERAL QUESTIONS

Question 1 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?

6. 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. At the same time, the pressures from increasing demand and demographic changes are growing. The costs of care and support increase dramatically in the last few years of life and with the aging population and demand for more person centred services, pressures will continue to grow.

7. Although a lot of money is spent on social care, progress in moving to more preventative approaches to delivering social care has been limited. This has led to tighter eligibility criteria being applied for accessing care and increasing levels of unmet need. This has consequences for those people needing services, their families and carers. Greater progress with addressing prevention across social care and public health is critical.

8. To ensure the success of the vision for the NCS and protect and support the most vulnerable members of our communities, the Scottish Government needs to ensure that the NCS and the NHS address the current and future needs of the population by adopting a whole system response that is sufficiently resourced, both in terms of financial and workforce resources. It must address prevention and it needs to clearly address the complex interface and inter dependency between health and social care where need is met in the community and in hospital settings.

9. It is not yet feasible to forecast if a National Care Service (NCS), as set out in the Bill, will be successful in delivering improvement in the quality and consistency of social work and social care. It is also not possible to assess whether the arrangements set out will more effectively respond to the growing demand and pressure on capacity. Its success relies on other conditions being in place:

- important aspects remain to be developed through the proposed co-design arrangements and further consultation, including:

- The number of care boards and the geographic areas they will cover, the membership of the boards and the duties, functions and services they will provide
 - The detail of workforce, employment and contractual arrangements
 - a national improvement framework
 - the standards and processes for ethical commissioning and procurement
 - the detail of arrangements for a national care record
- effective leadership, at all levels, and collaborative engagement of key stakeholders will be critical
 - sustainable and high-quality social work and social care services. These services are currently struggling and the success of the NCS will rely on current services being an effective foundation for the new arrangements. This includes sufficient financial resources and effective workforce planning to support sustainable services
 - given details of the arrangements have yet to be determined, the scale of the costs involved in the financial memorandum are estimates with many caveats. The affordability of the vision set out is not certain given the actual scale of the costs are not yet clear.

10. With such fundamental changes in service arrangements there are many significant risks that will need to be managed in implementing the proposed changes, as seen with the challenges in implementing reform over the last 10-20 years e.g., Police, health and social care integration, community planning and the Christie principles. [In our response to the 2021 consultation](#), we highlighted that the challenges go far beyond new structures. It is important that the cultural aspects are given equal attention. Cultural change will require strong and effective leadership that empowers and supports improvement. Related risks highlighted in the response remain relevant for development of the NCS. These include:

- A preventative, person-centred approach, is key for improving outcomes and reducing inequalities. However, we have repeatedly reported that this is not being achieved consistently or at scale.
- The intentions of the NHS 2020 Vision to shift the balance of care, and of health and social care integration to work more collaboratively to move resources into the community, have not been realised. Services are still fragmented and too focused on inputs and outputs rather than outcomes, and budgeting is short term.
- Data and systems to support planning and performance are not joined up and organisations are not always willing to share data.

- Service users and service providers who understand what is needed in their communities do not have enough of a say or choice in the care and support provided.

11. Our response to the consultation also highlighted that focusing on such a major transformation may divert attention from addressing the immediate challenges within the social care sector, including workforce issues and unmet demand for support. It may also distract from the need to progress with self-directed care, and the ongoing recovery within the NHS. It will take considerable time and investment and the focus on improving lives should not be lost amid structural changes. Our work has often highlighted that, without adequate planning - which includes strategic, operational, financial and workforce planning – there is a risk that, even with the best of intentions, major and timely change will not be delivered successfully.

12. It will require strong, clear, and consistent leadership to manage the scale of changes required over several years. It will require different organisations coming together to work in different ways. The importance of collaborative leadership and cultural change cannot be underestimated, and this is where we have seen major reform fail in the past.

13. Collaborative working with acute health services is important to achieving collective improvement in the outcomes for service users. This includes more understanding of shared challenges and collaborative planning around issues such as demand, contextual pressures such as increasing poverty, increasing complexity of need, technology and workforce pressures.

14. In recent years, we have highlighted significant challenges around leadership capacity across the public sector in our Local government in Scotland and NHS overview reports. We have emphasised the critical need for effective leadership at a time of increasing pressures and change. Public bodies, including councils, IJBs and the NHS are experiencing a high turnover in senior staff and are competing not only with each other for the best quality leaders but with the private and third sectors. A better understanding of the reasons for frequent turnover in public sector senior posts and how to address it is needed. The health and social care sector requires stable and collaborative leadership, working in partnership across public services.

15. Our [Social care](#) briefing (January 2022) highlighted that lessons also need to be learned from past restructuring and public service reform, for example health and social care integration, police and fire reform, college sector regionalisation, and the development of social security responsibilities in Scotland. Our reports in these sectors have found that reform is challenging and public bodies have experienced difficulties implementing elements of reform – expected benefits are not always clearly defined and, even if they are, reform does not always deliver the expected benefits, particularly in the short term. Any difficulties in implementing social care reform could have a significant negative impact on vulnerable people who rely on care and support. Key learning points include the importance of including:

- realistic costs in financial memoranda accompanying parliamentary bills for legislative change

- a comprehensive business case, clearly setting out the purpose and objectives of reform, timescales, key roles, responsibilities and accountability, risks, and the budget
- evidence to support major changes and being clear about how they will improve outcomes, options appraisal, and economic modelling
- good baseline information and a clear plan for measuring performance and improvement
- clear governance, accountability and roles and responsibilities in the new structure, and ensuring a shared understanding and agreement among key stakeholders
- strong, consistent strategic leadership from the outset
- an understanding of the time and effort needed to implement major change and complex restructuring, and of the cultural differences between partners.

16. We have reported on these issues at a national level in a range of reports and briefings about reform. The Accounts Commission has also provided public assurance at a local level on these types of issues, through its focus on Best Value in councils and integration authorities.

17. Although we have reported on the urgent need for progress in social care provision and reform, it is important for the Scottish Government to take the time necessary to affect the scale of the changes proposed. Setting unrealistic timescales may have a detrimental impact on services to citizens and to the workforce.

18. The Bill does set out commitments that reflect issues highlighted in our [Social care](#) briefing (January 2022) as being of concern or needing addressed. Effective implementation of arrangements to address these would contribute to improving the quality and consistency of the services. This includes:

- service users and carers voices being critical to delivering the long-standing ambition for social care
- recognising the need to support unpaid carers
- recognising the need to address staff pay and conditions
- improving commissioning and procurement arrangements to prioritise quality
- sharing information and data sharing to support improvement.

19. We welcome the principles set out in Part 1 that put people, human rights, prevention, and continuous improvement at the centre of the legislation. These principles have the potential to establish a very positive common foundation for social care services if the detailed arrangements build on these effectively. However, we would emphasise the importance of learning the lessons from the

implementation of other user-focused programmes such as self-directed support, where the implementation has not met the ambition of the policy. In his blog [Christie 10-years on](#), published in September 2021, the Auditor General commented that, “concerted action has been taken to try and implement progressive policies in areas such as community empowerment and self-directed support since Christie was published. But audit work consistently shows a major implementation gap between policy ambitions and delivery on the ground. For example, a 2017 progress audit on [self-directed support](#) found that, after seven years, not everyone was getting the choice and control over their care the SDS strategy envisioned. There was no evidence that authorities had made a transformation in services...Christie challenged us to make a shift towards prevention and deliver improved long-term outcomes for individuals and communities. But we still measure the success of public services by short-term, service-specific measures... there’s a mismatch between the Scottish Government’s vision of a more successful Scotland – where poverty is reduced, and economic growth is sustainable – and how we assess public sector performance.”

Question 2 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?

Question 3 Are there any specific aspects of the Bill which you disagree with or that you would like to see amended?

Question 4 Is there anything additional you would like to see included in the Bill and is anything missing?

20. We are not submitting a response to questions 2, 3 or 4. We do not comment on policy. It is for the Scottish Government to determine the structures and arrangements for social work and social care services that best meet the needs of Scotland.

Question 5 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?

The approach to developing secondary legislation

21. Using the Bill as a framework for establishing a NCS, with secondary legislation then setting out the detailed arrangement, makes it difficult to comment in any detail about the potential strengths or weaknesses of the arrangements at this stage. However, the approach allows for the development of the detailed arrangements through co-design. Both the AGS and the Accounts Commission have highlighted the importance of involving stakeholders, including service users, 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. This includes those currently providing unpaid care, such as family members and friends. Bringing together their views, knowledge and experience will be a

critical part of supporting improvements needed for the current pressing challenges facing social care services. The Scottish Government has demonstrated this approach effectively in other programmes such as work on the Independent Care Review for children's care and as part of its Social Security work. It is very positive to see the commitment to do this across many aspects of the development of the proposed NCS. We encourage the Scottish Government to consider how they engage with harder to reach groups and individuals as part of this process, for example those experiencing poor health and wellbeing outcomes due to marginalisation, such as traveller communities.

22. Engaging a wide range of stakeholders in co-design will bring risks in terms of managing expectations. The wide range of stakeholders will mean that coordinating work in such a complex landscape with different priorities and aims will be challenging. Ultimately co-design is about developing ideas and options; the decisions about the arrangements in secondary legislation will still be made by Parliament and by the Scottish Government. This needs to be clear at all stages so that all stakeholders understand their opinion and ideas might be heard but not necessarily put into regulations or practice.

Aspects where more detail would have been beneficial

23. We have consistently commented on the importance of effective leadership and governance to the success of any public body or programme of work. Given the significance of the proposed fundamental shift in accountability from local government and Integration Authorities to Scottish ministers and local Care Boards, this is an area where more detail would have been beneficial and would not have restricted the longer-term flexibility of the legislation. For example, more detail about the funding mechanisms and the mechanism(s) for monitoring and holding Care Boards to account for service and financial performance would be beneficial.

24. In supporting documentation, it would have been helpful to have more detail about the expectations for transitional arrangements and clarity about potential timelines for phases of the work. A clearer line about Care Boards superseding Integration Authorities and the timeline for this would have been beneficial. This would assist current Integration Authorities, councils, NHS boards and service providers, for example, with medium- and longer-term planning.

Question 6 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?

25. We do not comment on policy and it is for the Scottish Government to determine which services should or should not be included in a NCS. We have previously reported that the current model of governance for Integration Authorities is complicated, with decisions made at Integration Authority, council and health board levels. As highlighted in our [Social care](#) briefing (January 2022), 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, where it is critical that services interact seamlessly at an operational and strategic level, that these may function more effectively under a single service governance arrangement.

26. The collaboration and agreement required for the reforms proposed has been hard to achieve elsewhere. There are important lessons to learn from our 2018 [Health and social care integration](#) report where we found that Integration Authorities are addressing some significant, long-standing, complex and interconnected issues in health and social care. Our work identified six key areas that, if addressed, should lead to broader improvements, and help Integration Authorities to take positive steps toward making a systematic impact on health and care outcomes across their communities. These 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.

27. The six key areas identified still have much relevance to the proposals regarding a NCS and more direct routes of accountability and funding. We highlighted 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 Authority leadership teams have differing views about governance, especially clinical governance, and roles and responsibilities.

28. Our 2018 [Health and social care integration](#) report also noted that the Public Bodies (Joint Working) (Scotland) Act 2014 was intended to help shift resources away from the acute hospital system towards preventative and community-based services. However, we found there was 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. A key part of the reforms was that IJBs would direct some services provided directly within acute hospitals, to move care closer to people's homes and provide more joined-up care. However in practice, in most areas, the services had not been delegated. This has been a major source of debate and disagreement at a national and local level and is a fundamental issue which has hindered IJBs' ability to change the system. It is not clear how this has been considered in the current proposals and how the funding mechanisms will work in practice.

29. Although the detail is yet to be developed, it is clear in the NCS Bill that the importance of having clear and agreed governance and accountability arrangements at a national and local level has been recognised and articulated

at this primary legislation level. We also note the recognition of the need for collaborative working and common principles in the Bill. The effective implementation and embedding of this will be critical.

30. 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. There is a risk of fragmentation of local services if the changes made under the NCS fail to recognise and reflect the inter-connected nature of many local care service to other services currently delivered by councils. For example, in our report on [Improving outcomes for young people through school education](#) (March 2021), we highlight that many partners play an important role in improving outcomes, including from education and social care. We recommended that there should be a co-ordinated approach across policy areas at both a national government and local government level when planning to improve longer-term outcomes for children and young people and delivering the education recovery response to the equality impacts of Covid-19. If children’s social care services are transferred to the NCS, it will be important that it is done in a way that supports joint working between education and social care.

31. Similarly, in a blog on [Additional support for learning](#) (May 2022), the Accounts Commission said that public services need to improve how they are joining up, across professions, to plan and provide the right support to meet individuals’ needs. This includes schools, councils and social care services.

Question 7 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?

Overall financial sustainability

32. Over recent years, the Accounts Commission has reported, in its annual Local Government Overview reports about the financial challenges facing local government, the effect on services and the efforts to mitigate the impact on communities. In its [Local Government in Scotland 2022](#) overview report, it reiterates in relation to Social Care that “increasing demand, severe workforce pressures and limited progress in service improvement and reform are affecting the sustainability of services. Action is needed now to address these issues”.

33. The Scottish Government has committed to increasing social care funding by at least 25 per cent in cash terms over the current parliamentary term. This should mean over £800 million of additional funding by 2026/27. The Financial Memorandum sets out early estimates of costs associated with the Bill’s measures alongside a wide range of other areas of anticipated additional cost. Managing the overall affordability and sustainability of these additional spending commitments will be very challenging alongside the wider financial pressures on the Scottish Budget over the years ahead, including those highlighted in the recent Resource Spending Review and Medium Term Financial Strategy, as

well as the increasing level of inflation and the impact of the cost of living crisis. It will be critical for the Scottish Government to set out how the implementation of the Bill and associated measures will be funded in this wider context.

34. While the financial memorandum focuses on the additional cost of Bill measures, it helpfully sets out the anticipated costs of social care across the services potentially affected in table 2. These service costs explicitly exclude the effect of a range of wider factors that are set out in paragraph 13 which are likely to be significant. These figures include ‘a standard 3 per cent increase on all years and services to show growth in activity’. It’s not clear what the basis of this 3 per cent is and the extent to which this meaningfully reflects the implications of increasing demand from demographic pressures including the ageing population and more people living with disabilities.

35. Estimates are available around demographic changes and potential needs that could inform more detailed consideration of this important factor. By 2038, forecasts suggest that nearly a quarter of people living in Scotland will be over the age of 65. Scotland’s increasingly ageing population means that the demand for social care services will rise, and more resources will be required for social care over the long term. Around a fifth of the population of Scotland define themselves as having a disability and disability is more prevalent in older people. As our older population rises, the number of people with a disability, as a proportion of the population, is expected to increase too. The memorandum states “work will continue through the period of developing the NCS to understand demand and activity trends”. It will be critical to develop this understanding and the capacity of the proposed approach to respond effectively to this.

Financial implications of service redesign

36. In setting out indicative service costs in the financial memorandum the Scottish Government has assumed that ‘the transfer of services itself has no effect: the costs of providing these services will simply transfer from local authorities and health boards to the NCS’. While this planning assumption is understandable given the complexities involved this is very unlikely to be the case in practice, even allowing for the wide-ranging changes to policy set out in paragraph 14. Shifting to a national operating model can be expected to bring significant changes to the costs of services over time, given the variation in current service delivery models currently deployed across local authority areas.

37. There is also limited reference in the financial memorandum of the potential costs of addressing unmet need. We know that not everyone is currently receiving the care they need. The estimates of service costs do not reflect the financial implications of providing services differently, taking a more preventative approach with more early intervention. We would expect such an approach to bring additional costs as new approaches were introduced, with a real shift to a more preventative approach potentially reducing costs in the longer term.

38. In many of our reports we have commented on the lack of progress in shifting resources from acute to community settings and broader preventative approaches. A preventative, person-centred approach is key for improving outcomes and reducing inequalities. However, the AGS highlighted in his blog on [Christie: 10 years on](#) (September 2021) that this is not being achieved

consistently or at scale. The Christie report warned that without a shift to preventative action, increasing demand would swamp public services' capacity to achieve outcomes.

Existing financial pressures

39. While still challenging, a smooth transition and implementation of the NCS would be helped by the financial position and outlook of the current service provision being more robust. But the finances of the social care sector are currently precarious.

40. The Accounts Commission's [Integration Joint Boards: Financial analysis 2020/21](#) report (June 2022) highlighted that IJBs are facing unprecedented challenges as they seek to balance the impact of Covid-19, the remobilisation of services and rising demand. This is against a backdrop of financial and workforce pressures, uncertainty over future financial settlements and social care reform.

41. Additional Scottish Government funding that IJBs received during 2020/21 to bridge the gap in finances caused by the underachievement of savings, was provided on a non-recurring basis. The non-recurring nature of these funds presents a significant challenge to IJBs. While the reserve position is generally strong, moneys being carried forward can only be used once. It is essential that IJBs identify significant recurring savings to maintain current levels of service provision at the same time as transforming the way services are delivered. From a review of 2020/21 Annual Audit Reports, almost all IJB auditors have reported there is a financial sustainability risk in the medium term.

42. Notwithstanding planned budget increases set out in the Scottish Government's Resource Spending Review in some areas, health and social care budgets face an uncertain and challenging financial position over the next four years and beyond. The AGS' [NHS in Scotland 2021](#) report (February 2022) highlighted that the NHS was not financially sustainable before the Covid-19 pandemic, with NHS boards relying on additional financial support from government or non-recurring savings to break even. The scale of the financial challenge has been exacerbated by the pandemic.

43. The cost of delivering services has risen and additional spending commitments made by the Scottish Government add to NHS boards' financial pressures. The Programme for Government 2021-22 sets out the Scottish Government's intention to increase funding for frontline healthcare services by at least £2.5 billion by 2026/27. It also commits to increasing primary care funding by 25 per cent, and to reviewing the NHS funding formula to ensure that the funds are distributed equitably. The Scottish Government has not yet set a date for this review to be completed.

44. The Scottish Government required NHS boards to produce one-year financial plans for 2021/22 because of the ongoing uncertainty about the costs and financial impact of Covid-19 and about what funding would be available. There is uncertainty in the longer term about what Covid-19 related expenditure will be needed and about what funding will be available. NHS boards should return to medium-term financial planning in 2022/23, to help identify the known

factors in NHS funding over the next three to five years and ensure a balance between policy ambitions and available resources.

Implications for wider financial frameworks

45. The Scottish Government has committed to revising the health and social care medium-term financial framework. The timing of this will depend on the impact of Covid-19 across health and social care and planned reforms. Clearly, this will need to reflect the anticipated impact of the NCS in initial planning assumptions. The financial framework will need to be kept under regular review to reflect any significant changes as decisions are made about implementation.

46. Similarly, the impact of the NCS will be a key consideration as discussion continues about a fiscal framework for local government. The Bill introduces the scope for a significant transfer of service delivery and associated funding from councils to care boards. Given the significant impact that can be expected on local authorities' finances, in making these changes, careful thought will need to be given to the potential implications and risks to the sustainability of LG finances and services. A key part of this will be developing a fuller understanding of the overall financial impact for local government, and what this means for current funding models, as soon as possible.

47. Local government bodies, including councils and integration authorities, have powers to hold reserves and to borrow for capital purposes in a prudent manner. The Accounts Commission's [Integration Joint Boards Financial analysis 2020/21](#) report illustrates how integration authorities have used reserves in their financial management. Under current UK fiscal rules NHS boards do not have similar financial flexibilities. Instead, the Scottish Government operates a Scotland Reserve and has limited borrowing powers covering all the bodies under its direct control. With Care Boards likely to have a similar standing to their NHS equivalents, in practice this is likely to restrict their financial flexibility when compared to current arrangements.

Question 8 The Bill is accompanied by the following impact assessments:

[Equality impact assessment](#)

[Business and regulatory impact assessment](#)

[Child rights and wellbeing impact assessment](#)

[Data protection impact assessment](#)

[Fairer Scotland duty assessment](#)

[Island communities impact assessment](#)

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?

48. Equality impact assessment – The EIA is comprehensive in the way different groups have been considered and those most likely to need social care

services and support, but it will be difficult to assess the full impact of the NCS until the detail has been developed. Therefore, it will be important for the Scottish Government to keep engaging with a diverse and wide range of people while developing a NCS, as stated in the EIA. Although the EIA identifies many potential positive impacts, this will depend on implementation of the NCS, and should be continually monitored. In relation to a NCS charter, setting out the rights of individuals, families and carers, it will be important for this to take a human-rights approach, putting people at the centre and using internationally recognised approaches, such as the PANEL principles (<https://www.scottishhumanrights.com/projects-and-programmes/human-rights-based-approach/>).

49. Business and regulatory impact assessment – The scope of this impact assessment appropriately reflects that the Bill is a framework and therefore the BRIA is high level and limited in detail. It does identify that a full Programme Business Case will be published and sets out that, as further decisions are made, they will be subject to further business and regulatory impact assessment. We have not undertaken a detailed analysis of the Bill and the BRIA for the impact on current legislation or standards. In general review, we have not identified any omissions in terms of changes required to legislation. However, we do note that the BRIA does not reference the change in audit responsibilities that the NCS Bill brings. Currently, the Accounts Commission appoints auditors to audit, on its behalf, and report on IJBs including their Best Value responsibilities, as local authorities under the Local Government (Scotland) Act 1973. Local and special national Care Boards, as set out in the Bill, will be the audit responsibility of the AGS under the Scotland Act 1998 and the Public Finance and Accountability (Scotland) Act 2000.

50. Child rights and wellbeing impact assessment – The impact assessment indicates that children and young people will be consulted on the proposal to develop a NCS, including young carers. It implies young carers will be involved in co-design of policies supporting a NCS as it says this will involve people “with lived or living experience of all ages”. It also refers to engaging with a range of stakeholders, including “those representing children, to ensure that the needs of children are met and that they are not impacted adversely”. However it does not specifically refer to engaging directly with young carers to ensure their needs are met. The paper acknowledges that a full impact assessment will be carried out if children’s services are to be subsequently included in a NCS.

51. Data protection impact assessment – The impact assessment appropriately reflects that the Bill is a framework and identifies that detailed DPIAs will be required for secondary legislation as this develops. It recognises that there will be public concern around the handling of sensitive data held as part of the proposed care records. It commits to ‘any systems that National Care Service uses to store personal data will require to meet or exceed security standards required for health systems used in Scotland including adequate encryption, secure monitoring at all times, secure access and an audit/log’. It also recognises the challenges of legacy systems in many of the organisations involved in the collection of data, and that it will take time to be able to properly follow all information standards set by Scottish ministers.

52. Fairer Scotland duty assessment – The assessment seems quite narrow, focusing on deprivation rather than the wider aspects of socio-economic disadvantage, such as the implications of poor educational attainment and how people access care and information and may need additional support to do this or alternative formats. It recognises data gaps which will need to be addressed as a NCS develops and as part of the wider Health and Social Care data strategy and the Equality Data Improvement Programme. The assessment states that Fair Work will be embedded into a NCS as a founding principle. However, as we highlighted in our [Social Care briefing](#) in January 2022, the pressures and challenges facing the social care workforce are immense and need to be urgently addressed. So this cannot wait until a NCS is fully implemented.

53. Island communities impact assessment – The ICIA sets out the consultation on a NCS that has taken place and that is continuing with island communities. This has identified a wide range of island-specific concerns. It recognises limitations with existing datasets and where islands are part of mainland authority areas. Other sources of island-specific data have been sought but some of these are not regularly collected or specific to social care. It recognises the need to directly consult with island communities and improve data. It also states that co-design of a NCS will consider issues facing island communities and continue in discussions throughout the design stage regarding the specific circumstances they might face. It recognises the type of specific challenges the island communities will need to address such as responding to the right to breaks from caring, with additional barriers for island communities such as staff availability, transport costs and travel times.

Question 9 Did you take part in any consultation exercise preceding the Bill and, if so, did you comment on the financial assumptions made?

54. Audit Scotland submitted a [response on behalf of the Accounts Commission and AGS in November 2021](#) to the consultation undertaken preceding the Bill. No specific comments were made about any financial assumptions made.

Question 10 If applicable, do you believe your comments on the financial assumptions have been accurately reflected in the financial memorandum (FM)?

55. Not applicable.

Question 11 Did you have sufficient time to contribute to the consultation exercise?

56. The timeframe for the consultation was short. This can make it challenging to ensure that all contributors from the Accounts Commission, AGS and Audit Scotland have time to review and consider the response fully. However we were able to submit a full response in time for the set close date.

Question 12 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

57. Not applicable. The Bill does not have direct financial implications for the AGS or the Accounts Commission that we would expect to see in the Financial Memorandum.

Question 13 Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?

Overall approach

58. Our [Social care briefing](#) (January 2022) stresses the importance of including realistic costs in financial memorandums accompanying parliamentary bills for legislative change as the Scottish Government takes forward its plans for a National Care Service.

59. [Developing financial reporting in Scotland](#), published in July 2013, and [Update on developing financial reporting](#) (March 2015) highlighted the importance of comprehensive and reliable financial information to help support decision-making, for example, by allowing decision-makers to analyse options and prioritise activities. The update noted ‘As improving outcomes is a long-term goal, financial planning should also have a longer-term lens. An honest assessment of gaps in funding will help identify any future threats to achieving outcomes.’ In [Planning for outcomes](#) (June 2019), the AGS highlighted the importance of considering longer-term outcomes and reflecting this in financial planning.

60. Cost estimates need to be kept under review. In [Managing the implementation of the Scotland Acts](#) (March 2018), the AGS said: “Budgeting, financial monitoring and reporting require further development to enhance transparency and support effective scrutiny. More detailed estimates of costs need to be developed and refined as decisions are made about service delivery and long-term IT solutions.” Given the significant amount of uncertainty set out in the financial memorandum – from both the co-creation approach planned and other uncertainties as implementation is worked through – it will be critical to regularly update estimates of overall costs and other financial implications and report on these regularly to Parliament and local authorities.

61. In [Social security: implementing the devolved benefits](#) (May 2019) we reported that the Scottish Government does not yet have a clear understanding of the key things needed to deliver all remaining benefits in the way it intends. This includes not monitoring and reporting on how much it will cost to fully implement all the benefits. Our latest report [Social security: progress on implementing the devolved benefits](#) (May 2022) said that the implementation costs have not been routinely reported on publicly and that the scale of staffing required to implement and administer the benefits is much larger than the Scottish Government initially estimated.

Estimates of service costs

62. High level observations on the nature of service cost estimates set out in table 2 are included in our response to question 7. In this section we set out

more detailed observations about the basis of these estimates. We note that the Scottish Government's aim in setting out these estimates is to provide illustrative figures 'to show a scale of the services in scope'. Nonetheless, in our view it is important to understand the limitations of the figures provided to support wider consideration of the financial implications of the Bill.

63. Service cost figures are drawn from pre-existing data sources as set out in the first bullet of paragraph 30. While these are based on defined methodologies to be applied by all relevant bodies, there nonetheless are likely to be some variability in the application of these across different councils and health boards. For example, there is likely to be a significant degree of variation in the treatment of central support service costs and other 'overheads'. There is also likely to be a significant underlying variation in the service models used in different areas, with a consequential impact on the costs reported.

64. Paragraph 30 also notes that 2019/20 data is used (inflated to current prices) and therefore 'do not account for any impact of Covid on services, to avoid extrapolating forward any non-recurring expenditure'. Given the impact of the pandemic on both funding levels and service models and associated costs we consider this to be a reasonable approach that helps avoid significant distortion of the underlying position.

65. It's not clear how the service strategy costs set out in table 2 relate to the Scottish Government's assessment of national NCS costs, and the extent to which these are reflected in the assessment of any savings as part of the net position. It would be helpful for Scottish Government to clarify this.

Costs not assessed

66. There are a number of costs associated with the measures set out in the Bill that have yet be assessed. The Scottish Government has recognised this providing a broad description of the anticipated cost and the difficulty in assessing it at this stage. In some of these the potential for additional cost is significant and taken together it is likely that the overall cost of the measures will be significantly above the amounts currently assessed.

67. Areas where cost information has not been provided include:

- the costs of any national care boards
- transition costs for Local Authorities and Health Boards, including double running. These may be significant and it will not be to unpick existing services from the other services these bodies provide
- the impact of changes to VAT treatment, with the expectation that Care Boards will not be able to recover input VAT to the same extent as local government bodies. While recognising the difficulties in making such an assessment it is import that the Scottish Government is able to provide its overall assessment of the potential significance of this issue as soon as it can

- the impact of any changes to pension scheme arrangements and associated contribution costs arising from pay harmonisation/rationalisation
- the extent of potential changes to capital investment and maintenance costs
- the cost of the health and social care information scheme.

Basis of cost assessment

68. It will be important for the Scottish Government to clarify how certain items are treated in its assessment of costs, given the potential significance to understanding the figures provided. In particular:

69. Paragraph 39 highlights that NCS running costs include an estimated 500 – 700 people but that ‘these are not all additional posts compared to current headcount profile’. It will be important to understand whether this means that headcount savings/ efficiencies are expected in other areas of the Scottish Government (with people moving to the NCS) and/or whether this refers to people joining the NCS in the establishment phase continuing with the new service.

70. Paragraph 51 provides details of the components of core management costs assessed, but the subsequent analysis does not provide any information against these headings. It will be helpful to understand how these different elements contribute to the overall costs of care boards.

Question 14 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?

71. Not applicable

Question 15 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?

72. In our view, the potential costs summarised in table 1 of the financial memorandum are likely to significantly understate the margin of uncertainty and range of potential costs of the Bill measures due to:

- changes and increasing volatility of inflation expectations - The inflation indices applied by the Scottish Government are set out in the last bullet of paragraph 30. These are taken from ONS publications but more recent information on actual and forecast inflation are well ahead of the assumptions used. There is significant uncertainty about the future path of overall inflation measures and how this translates to public sector pay and other costs, but in our view the margin of uncertainty in the figures is likely to be significantly understated as a result.
- costs not yet assessed, as set out in our answer to question 13 above - In our view such costs have the potential to add significantly to the

overall costs reported and are not currently reflected in the assessed margin of uncertainty.

73. We would also offer the following observations in relation to the assessment of the margin of uncertainty in specific elements of the costs set out:

- In assessing the range of costs of national services, the Scottish Government has set out a range of potential staffing levels and used this to estimate costs. A different approach has been used in assessing care board costs which is based on the potential timing and extent of the transfer of services. Both dimensions seem pertinent to both national and local costs.
- The variability of cost of staff harmonisation/ rationalisation highlighted in paragraph 54 is not reflected in the range quoted. In our view there is likely to be significant uncertainty about the cost of harmonisation that goes beyond the extent of services and staff groups involved.

Question 16 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?**

74. We are not providing any additional response to question 16 as the questions lead to either comment on policy or our points have been covered in the preceding questions.

National Care Service Bill - Call for views

Response to Call for Views

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