

# National Care Service (Scotland) Bill (Stage 2)

Consultation issued by the Scottish  
Parliament's Health, Social Care and  
Sport Committee

A Submission by:  
The Chartered Institute of Public Finance and Accountancy

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**CIPFA, the Chartered Institute of Public Finance and Accountancy**, is the professional body for people in public finance. CIPFA shows the way in public finance globally, standing up for sound public financial management and good governance around the world as the leading commentator on managing and accounting for public money.

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Any questions arising from this submission should be directed to:

Dr William Burns  
Social Care Policy Advisor  
CIPFA  
77 Mansell Street  
London  
E1 8AN  
Email: [William.burns@cipfa.org](mailto:William.burns@cipfa.org)

# 1. The proposal to create a National Care Service Board, and the provisions about the role and the functions of the Board.

Partly support and partly oppose.

- 1.1 CIPFA is an advocate of social care reform in Scotland. We believe that any programme of reform can only be successful if it is built on solid foundations. The Independent Review of Adult Social Care (IRASC) begins by setting out three steps to improving social care in Scotland: 1. Shift the paradigm; 2: Strengthen the foundations; 3. Redesign the system. We are concerned that not enough has been done to strengthen the foundations upon which a reformed system can be built. Rather, redesigning the system has taken priority even when it has involved using stronger measures than necessary to address challenges when solutions could be found within the existing legislative framework. Furthermore, there is little evidence that the proposed measures will improve people's outcomes and the impact of the public pound in the social care system in Scotland.
- 1.2 CIPFA agrees in principle that social care in Scotland would benefit from enhanced national oversight to drive improvement. While CIPFA believes in the principle of subsidiarity, there is currently inconsistency in the quality and availability of care across the country. Meanwhile, demand for social care is rising and funding for social care is falling in real terms, leading to an unsustainable financial and operational position. While the proposals for the NCS may improve national oversight, it is unclear how the proposed changes will address these existential challenges.
- 1.3 The proposed responsibilities to be assigned to a National Care Service Board (NCSB) are broad in scope. CIPFA asks whether these responsibilities require a new board to be set up to deliver them, or whether the proposed responsibilities can be achieved using existing partners in the social care system in Scotland, including local authorities, the Scottish Government, the National Health Service (NHS), and other agencies. The memorandum states that 'the current system is not working for people'. Stage 2 of the NCS Bill assumes that it is the fault of the structure of the system rather than of funding and strategic challenges.
- 1.4 CIPFA is concerned that creating an NCSB carries with it the risk of adding a further layer of bureaucracy and complexity to an already-complicated system. Not only does complexity within the system sow confusion for those who draw on care and support, it is also difficult to understand for people who work within the system itself. There is an overall lack of clarity about where accountability falls, and adding a further body to the mix could exacerbate these challenges. Furthermore, it is well-known that in the current system, there can be delays to agreeing funding between partners (namely local authorities, the NHS and Integration Authorities (IAs)). Adding another vehicle into negotiations could cause delays in the system and create financial and governance-related difficulties.
- 1.5 In terms of NCSB membership, CIPFA notes that there is no mention in Schedule 2C of an NCSB being required to include any representatives from NCS Local Boards (NCSLBs). This is concerning given that questions remain on how an NCSB will infringe upon or interact with the work of NCSLBs. To echo a sentiment from IRASC, an NCSB should bring together everyone with a role to play in the planning and delivery of social care. This should include representation from the NCSLBs.

- 1.6 The memorandum notes that ‘the NCSB would have a role in place based policy linking closely with other services’. It is important that national oversight does not interfere or conflict with local knowledge and decision making. Local areas are best placed to make decisions relating to their populations, and centralisation in the form of an NCSB may prove ineffective in meeting the needs of specific local populations and ensuring value for money.

## 2. The proposal to establish National Care Service local boards and to remove other integration models

Partly support and partly oppose.

- 2.1 First, CIPFA believes that it is better to reform existing IAs rather than to set up 31 new local boards as was originally proposed. That approach would have been a wasteful exercise in duplication carrying significant financial risks. That the revised Financial Memorandum (FM) has removed 90% of costs with this approach raises the question of why introducing 31 new bodies was considered in the first place, and the extent to which the proposed legislation is well thought through in terms of achieving intended outcomes and value for the public pound.
- 2.2 In terms of removing other integration models, as the Integrated Joint Board (IJB) model is used in 30 out of 31 partnerships, this should only present a challenge to the two partners who have adopted the Lead Agency model: Highland Council and NHS Highland. However, as is becoming a recurring theme throughout the NCS legislative process, not enough information is provided to come to a conclusion about the financial and operational impact of such a change. The impact on public finance and care provision in the Highland area has the potential to be significant, making an already-difficult financial and operational environment worse.
- 2.3 It states in the Minister’s letter of 11 December 2023 that local authorities are to retain responsibility for all current functions, with no transfer of staff or assets. Does this apply in this situation? Would Highland Council retain responsibility for children’s nursing care, and would NHS Highland retain responsibility for adult social care under the IJB model? Or would children’s nursing care revert to being the responsibility of NHS Highland, and would adult social care revert to Highland Council, reversing years of operational and financial integration? The answer to this question is not explicit and requires clarification.
- 2.4 If services were to revert, the challenge this will present to Highland Council and NHS Highland should not be underestimated. After a decade of integration under the Lead Agency model, budgets for delegated services have become fully integrated in the respective agencies. Enforcing the IJB model, with its well-documented governance challenges, may present strategic and funding difficulties.
- 2.5 Unpicking integrated budgets will require human and financial resource at a time when these resources could be better spent on providing care and support to those who need it. Separating the budgets may also have an impact on other council and NHS-run services. This has not been considered in the documentation accompanying the Bill.

- 2.6 Another fundamental question related to the transfer of services is the transfer of staff. TUPEing staff is a disruptive activity and will be affected by the different terms and conditions of employment between NHS Highland and Highland Council. Almost one in ten social care roles in Scotland are vacant, so to disrupt the adult and children's social care workforce in Highland in this context is ill-advised.
- 2.7 CIPFA urges the Scottish Government to maintain the position set out in the 11 December 2023 letter as reversion would entail significant realignment, renegotiation of contracts, disruption to service, and potentially-significant financial consequences. No matter the approach to removing the Lead Agency model, Highland Council and NHS Highland should be offered additional support in their transition to the IJB model.
- 2.8 Rebranding current IAs as NCSLBs is a useful exercise in that it makes a clear connection with IAs and the work of a National Care Service. While such rebranding is useful to signal a scale of ambition, it is crucial that the work done to create a National Care Service is not solely cosmetic, and that it actually engenders positive reform that improves social care in Scotland.

### 3. The Scottish Government's approach to addressing the areas of further work outlined in the Minister's covering letter

Direct Funding: Tend to oppose.

- 3.1 IRASC recommended direct allocation of budgets by the Scottish Government to IJBs and national care bodies.
- 3.2 Existing funding streams are circuitous, complicated and not easily understood even by those who work in the system. To illustrate this point: the Scottish Government allots funding to the NHS and local authorities through the Budget. NHS Territorial Boards and LAs then pool their budgets through IJBs. IJBs do not have bank accounts so the transfer of funding to IJBs is notional. IJBs then issue directions to LAs and the NHS on how funds are to be apportioned and spent.
- 3.3 The circuitous nature of funding streams can cause delays in agreeing budgets and can hinder long-term strategic financial planning. Differences in the timing of budget settlements between health boards and local authorities mean that IJBs are the last to set their budgets. Last year, 7 IJBs hadn't agreed their budget before the start of the financial year due to disagreements over savings plans and uncertainty over NHS funding. In the past, strategic plans have had to be published before budgets have been settled. As the champions of good public financial management, it is CIPFA's view that too much time is spent agreeing budgets to the detriment of good public financial management, effective service delivery, innovation and improvement. The memorandum itself references IJBs not holding their own budgets and the complexity of arrangements as factors in the failure to consistently deliver high-quality and integrated services.
- 3.4 Critically, direct funding should go beyond funding "for specific purposes, such as regional and national commissioning of specialist services". NCSLBs should receive all of their funding directly.

- 3.5 Directly funding reformed NCSLBs would unleash these bodies from the constraints described and streamline funding and planning processes, and also has the potential to assuage some of the challenges likely to be wrought by the introduction of the NCSB.
- 3.6 Providing direct funding on an ad-hoc basis presents the risk that existing funding partners may withhold funding on the perception that NCSLBs will receive funding from other sources.
- 3.7 To summarise, CIPFA does not agree that funding should be provided directly for specific purposes, rather NCSLBs should receive all of their funding directly.

Children's Services: Tend to support.

- 3.8 Under current arrangements, services are not consistently delegated to IJBs throughout Scotland. In some areas, children's services are delegated to the IJB, and in some areas the local authority has retained strategic planning for children's services. There seems to be a geographic split in delegation status where in the east children's services tend not to be delegated and in the west children's services do tend to be delegated. This entails a geographic split in the impact of mandating that children's services are delegated.
- 3.9 For those areas where children's services are not currently delegated, there may be issues when removing strategic planning of these services from local authorities. These areas have gone through ten years of integration, and similar to the challenges outlined in reference to enforcing the IJB model in Highland, unpicking the operations and finances will present difficulties.
- 3.10 Some local authorities where children's services are not delegated currently have overspends in this area. There will be an impact on IJB finances if it becomes mandatory for children's services to be delegated and these deficits are transferred. IJBs are already operating under significant financial challenge, and the transfer of deficits will exacerbate these challenges, and impact other services that the IJB oversees.
- 3.11 The Scottish Government must consider what support it will offer areas where children's services are not currently delegated, both to facilitate the smooth transfer of these services and to avoid financial detriment to the respective IJBs.
- 3.12 With these challenges having been cited, CIPFA is in favour of the consistent delegation of services to IJBs across Scotland. Consistent delegation will streamline processes, enable enhanced coordination between services, and improve financial planning.

## 4. Other comments on the Scottish Government's proposed draft Stage 2 amendments to the National Care Service Bill

- 4.1 CIPFA notes that this is the first opportunity to share its views on the updated FM since it was published in December 2023. CIPFA welcomes the fact that the Scottish Government has abandoned some of the most financially unsustainable aspects of

the Bill, including the transfer of staff and assets. With so many financial reductions made from the previous iteration of the FM, such as in staffing and IT, it begs the question of why these were considered appropriate areas of spend in the first place given that they can now be delivered using existing resources. Equally, it raises concerns that the costs contained in the revised FM do not represent all of the costs that would be incurred in reality.

- 4.2 While there is additional information contained in the revised FM, it is CIPFA's view that there remains a lack of sufficient detail to say with confidence that the estimates provided are accurate or that it represents value for money and a worthwhile investment. It is vital that a robust and realistic FM is provided to parliamentarians and stakeholders to allow for sufficient scrutiny, and to enable effective decision making. The Scottish Government faces a significant financial challenge, and ensuring that money is directed to where it can be of greatest impact, and where it can achieve the best value for money is of great importance.
- 4.3 There are other Scottish Government commitments that could arguably have a greater impact on people's experience of care in Scotland rather than the structural change proposed in the Bill. Many of these commitments have been removed or delayed. For example, removing non-residential social care charges, and uplifting rates paid for free personal and nursing care to those in the National Care Home Contract. It is possible that the Scottish people would feel the benefit of these policies more than the proposed establishment of a national board and the rebranding of IAs.
- 4.4 CIPFA is concerned that there is a focus on structural change rather than on improving health and integration, funding, governance, outcomes, value for money, and strategy within the current integration framework. The proposed structural change involves rebranding, adding layers of complexity and bureaucracy, and fails to address the fundamental challenges in social care in Scotland.
- 4.5 CIPFA reiterates that it is vital that reform is built on solid foundations. Local authorities across Scotland have grave concerns about their financial sustainability, struggle within the current funding envelope to meet their statutory duties, and face a significant challenge each year in delivering a balanced budget. Adult social care is the most pressing challenge faced by councils both in the short and long-term, and demand is increasing exponentially. The question is: is it appropriate to spend limited time and resources on an exercise in structural change when there are such pressing challenges facing the social care sector? Can better results be achieved through improvement within the current legislative framework?
- 4.6 The Bill as it stands risks making a complicated system more complex, leading to delays to budgetary and strategic settlements that will exacerbate existing challenges and hamper effective care delivery, innovation, improvement in outcomes and achieving value for money.
- 4.7 As with Stage 1 of the Bill, there are costs that have not been accounted for, including the financial impact of enforcing the IJB model. While not included in this consultation, the transfer of children's and justice social work to NCSLBs where these services are not currently delegated will also have financial implications for which there is no estimate. CIPFA recommends that stakeholders continue to be consulted on financial implications as the Bill progresses.
- 4.8 Throughout this legislative process, there has been the impression that there has been an emphasis on getting this Bill through the Scottish Parliament by the end of

the current parliamentary session at the expense of ensuring that the project is delivered in a way that will address the fundamental challenges facing social care in Scotland.

- 4.9. It is CIPFA's view that the case for a National Care Service remains to be effectively argued, and that the Scottish Government should reassess its priorities in terms of improving the social care system in Scotland.