



**Item: 10**

**Policy and Resources Committee: 24 September 2024.**

**National Care Service – Stage 2 Draft Amendments – Consultation Response.**

**Report by Chief Executive.**

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## **1. Overview**

1.1. The National Care Service (Scotland) Bill was published in June 2022 and provided for the establishment of a National Care Service (NCS), under the responsibility of Scottish Ministers. The NCS Bill as published in 2022 provided for the transfer of listed social care and social work local authority functions, staff and assets to Scottish Ministers or newly established local care boards.

1.2. The usual parliamentary process for a Scottish Parliament Bill consists of three stages:

- Stage 1 - consideration of the general principles of the Bill by parliamentary committee(s), and a debate and decision on these by the Parliament.
- Stage 2 - detailed consideration of the Bill by parliamentary committee(s).
- Stage 3 - final consideration of the Bill by the Parliament and a decision whether it should be passed or rejected. After a Bill has been passed and received royal assent, it becomes an Act of the Scottish Parliament.

1.3. The NCS Stage 2 – Draft Amendments is currently out for consultation with a closing date for responses of 20 September 2024.

## **2. Recommendations**

2.1. It is recommended that members of the Committee:

- i. Homologate the Consultation Response, attached as Appendix 1 to this report, to the Stage 2 Amendments in respect of the proposed National Care Service, which was submitted by the Chief Executive on behalf of the Council to the Scottish Government by the deadline of 20 September 2024.

### 3. Background

- 3.1. The National Care Service (Scotland) Bill has progressed through Stage 1 of the Scottish parliamentary process and the general principles of the National Care Service (NCS) have been examined by the Scottish Parliament's Health, Social Care and Sport Committee (alongside work being undertaken by other Parliamentary Committees).
- 3.2. The original deadline for the completion for consideration of the Stage 1 of the National Care Service (Scotland) Bill had been 17 March 2023. However, the deadline was then extended to 30 June 2023, before being further extended to 31 January 2024.
- 3.3. In June 2023, the Scottish Government reached an initial agreement with local government and the NHS on accountability arrangements for the NCS. The agreement aimed to clarify who will be responsible for providing care to the service users once the NCS is established, with overall legal accountability to be shared between Scottish Government, the NHS and local government and discharged in the form of a NCS Board.
- 3.4. On 7 November 2023, the Health, Social Care and Sport Committee wrote to the Scottish Government seeking clarity on Scottish Government's intent with the NCS Bill and possible amendments they might wish to make in light of the June agreement reached with COSLA Leaders.
- 3.5. On 6 December 2023, the Minister for Social Care, Mental Wellbeing and Sport wrote to the Scottish Parliament's Health, Social Care and Sport Committee in response to their Stage 1 scrutiny of the Bill.
- 3.6. In that letter of 6 December 2023, the Minister stated in response to the Health, Social Care and Sport Committee, that the Scottish Government no longer expect to abolish integration authorities and replace them with care boards.
- 3.7. The Minister also confirmed in response to the Health, Social Care and Sport Committee that a NCS Board would be established with the following remit:
  - Setting national strategic direction.
  - Developing standards, guidance and operating frameworks.
  - Overseeing and seeking delivery assurance on local strategic plans and ethical commissioning strategies.
  - Monitoring system performance.

- Maintaining a support and improvement framework which will aim to provide support to local areas when monitoring indicates that standards are not being met with powers of intervention, when required, as a last resort.
- Ensuring visibility of data, information, and analysis about social care support, social work and primary and community health services through reporting on delivery.
- National commissioning and procurement by agreement for complex and specialist social care services which will include prison social care.
- Seeking assurance on public protection arrangements.
- Providing support to local delivery partners.

3.8. On 11 December 2023, the Minister for Social Care, Mental Wellbeing and Sport wrote to the Convener of the Scottish Parliament’s Finance and Public Administration Committee with the Scottish Government’s response to the report of 1 December 2022 by the Committee on the Financial Memorandum for the National Care Service (Scotland) Bill.

3.9. On 17 January 2024, the Scottish Parliament agreed, and the Scottish Government confirmed, that consideration of the National Care Service (Scotland) Bill at Stage 1 would be extended to 1 March 2024.

3.10. On 22 February 2024, the Health, Social Care and Sport Committee published its Stage 1 report on the National Care Service (Scotland) Bill.

3.11. On 28 February 2024, the Minister for Social Care, Mental Wellbeing and Sport wrote to the Convener of the Scottish Parliament’s Health, Social Care and Sport Committee with the Scottish Government’s response to the Committee’s Stage 1 report on the NCS Bill. The appendix to the letter includes a proposed summary target operating model for the NCS; and states that “the membership and composition of the National Care Service Board and reformed IJBs will be determined through co design and set out as appropriate in secondary legislation”.

3.12. On 29 February 2024, the National Care Service (Scotland) Bill passed Stage 1 in the Scottish Parliament.

## **4. Stage 2 Draft Amendments**

4.1. In June 2024, the Scottish Government published the NCS Stage 2 – Draft Amendments Consultation, with responses due by 20 September 2024.

4.2. The consultation asks nine questions:

- What is your view of the proposed new National Care Service strategy?
- 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?
- What is your view of the proposal to establish National Care Service local boards and to remove other integration models ?
- What is your view of the proposed new provisions on monitoring and improvement and on commissioning?
- 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?
- 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?
- 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?
- What is your view of the initial draft of the National Care Service Charter?
- Do you have any other comments on the Scottish Government's proposed draft Stage 2 amendments to the National Care Service Bill?

4.3. Although many of the amendments proposed via Stage 2 are in line with the co-design discussions that have taken place, some amendments are arguably more controversial. For example, despite the Minister's previous commitment to retain Integration Joint Boards, the latest amendments now propose changing these to local care boards.

4.4. The attached response that has been submitted on behalf of Orkney Islands Council takes the opportunity to highlight some of the inconsistencies within the latest draft of the Bill and raises concerns about the uncertainty that remains in relation to the wording of some sections and what the Government's future intention regarding the practical application of this will be. In addition, the response aims to cover some of the key implications of the legislation for Orkney, as an islands authority.

4.5. Senior officers and Elected Members continue to engage in discussions at various forums - nationally, regionally and locally.

4.6. The Scottish Government team overseeing development of the legislation continues to meet with the Islands authorities on a regular basis, and attendees to these meetings include the Chief Officer of the Integration Joint Board and the Chief Executives of NHS Orkney and Orkney Islands Council.

4.7. There has been a commitment from the Scottish Government team to undertake an updated Island Communities Impact Assessment. There are two Island Communities Impact Assessment Online Sessions available on 18 September and 19 September 2024, where island communities have the opportunity to share their views on social care, social work and community health support.

## 5. Consultation

5.1. The response was shared with Senior Councillors by the Chief Executive on 16 September 2024.

### For Further Information please contact:

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### Implications of Report

- 1. Financial** – There are no direct financial implications arising from this report. In evidence provided to the Scottish Parliament’s Finance and Public Administration Committee on 25 January 2024, the Minister for Social Care, Mental Wellbeing and Sport has stated that planned amendments to the National Care Service (NCS) Bill means that the set-up costs are now estimated by Scottish Government to be between £120m and £227m over a 10-year period.
- 2. Legal** – There are no legal implications arising directly from the recommendation in this report. Approving the recommendation will assist the Council in having its views on the National Care Service (Scotland) Bill taken account of in the legislation that is ultimately passed.
- 3. Corporate Governance** – not applicable.
- 4. Human Resources** – not applicable.
- 5. Equalities** - It is likely that a NCS will have an impact on the Orkney Islands Council and Integration Joint Board’s budgets, the delivery of these budgets and Governance arrangements.

However, as this report does not introduce a new policy, function or strategy or recommend a change to an existing policy, function or strategy, no impact assessment is required.

Officers and Members from Orkney Health and Social Care Partnership and Integration Joint Board have continued to engage with this process through multiple mechanisms, alongside other key representative bodies including Health and Social Care Scotland, COSLA and Social Work Scotland.

6. **Island Communities Impact** - As the recommendation in this report does not introduce a new policy, function or strategy or recommend a change to an existing policy, function or strategy, no island communities impact assessment is presently required.
7. **Links to Council Plan:** The proposals in this report support and contribute to improved outcomes for communities as outlined in the following Council Plan strategic priorities:
  - Growing our economy.
  - Strengthening our Communities.
  - Developing our Infrastructure.
  - Transforming our Council.
8. **Links to Local Outcomes Improvement Plan:** The proposals in this report support and contribute to improved outcomes for communities as outlined in the following Local Outcomes Improvement Plan priorities:
  - Cost of Living.
  - Sustainable Development.
  - Local Equality.
9. **Environmental and Climate Risk** – not applicable.
10. **Risk** – not applicable.
11. **Procurement** – not applicable.
12. **Health and Safety** – not applicable.
13. **Property and Assets** – not applicable.
14. **Information Technology** – not applicable.
15. **Cost of Living** – not applicable.

### **List of Background Papers**

Health and Sport Committee Letter to Minister – 07/11/23.  
 Minister’s Reply to Health and Sport Committee – 06/12/23.  
 Minister’s Response to Finance and Public Administration Committee – 11/12/23.  
 Minister’s Letter to Health and Sport Committee and Appendix – 28/02/24.  
 NCS Bill marked up with proposed amendments.  
 NCS Stage 2 list of draft amendments.  
 COSLA National Care Service Call for Views and National Social Work Agency.  
 COSLA National Care Service Response.

### **Appendix**

Appendix 1: Draft Orkney Islands Council Consultation Response.

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

The National Care Service (NCS) Board should be well-placed to help shape the strategic direction and oversee the National Strategy. We welcome the move towards a five-year strategy giving more time to embed stability and fully implement strategies that, by their nature, can only be successfully delivered with appropriate time and space.

Section 1C(2)(a) states that the strategy document will set out “the main challenges that the National Care Service institutions are to focus on addressing”. It remains unclear as to how the national strategic priorities will take account of local variation and the degree to which local boards will have the flexibility to shape priorities through their own planning structures.

Section 1D (1) and (2) details that in preparing the strategy, Scottish Ministers should have regard to the NCS principles and consult with the public in Scotland as well as the NCS Board, NCS local boards, local authorities and health boards. In consulting the public in Scotland, there is no reference made to how this is done and, therefore, no mention made of how local systems, and existing and effective mechanisms for meaningful public consultation would be utilised.

If it is anticipated that public consultation is undertaken via a national exercise, as a small, remote and rural islands authority, we have some concern that our voice, and the issues that are most pressing to our communities, could be lost. Although Orkney shares many of the pressures and challenges that are being experienced across the country, there are undoubtedly issues that exist that will be anathema to many larger mainland areas. An additional section here that recognises the planning requirements of local boards, and the need for Scottish Ministers to have regard to these plans in preparing the national strategy, would be helpful.

On a more general point, it would be helpful for the National Care Service Strategy section to reference the need to have cognisance of all other related national strategies and for ensuring that the NCS Strategy is aligned with these.

## 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)?

Section 12B highlights the renaming of integration joint boards to National Care Service local boards. Whilst we appreciate that the proposed renaming aligns the local boards with the national board, and eradicates the potential for confusion, particularly for the public, all local systems have worked hard over the last ten years to enhance the awareness and understanding of what Integration Joint Boards are and how they fit within local systems. Likewise, the workforce that delivers the delegated services is branded locally as Orkney Health and Care (HSCP in most other areas). This will require substantial effort locally to rebrand the local boards and to engage in further public awareness raising.

Section 19 of Chapter 1B which provides powers to the NCS Board to 'transfer local board's functions due to service failure' remains potentially confusing. Given that there will be no transfer of staff from NHS or local authorities, local boards will continue to commission services from NHS and local authority (as well as a range of other providers) to deliver on their behalf. This potentially means that the accountability for any 'service failure' therefore will not necessarily sit with the local NCS board but with the NHS or the local authority. We do not feel that the power given to the NCS Board to transfer power to another local board, takes account of the nuanced reality of the current arrangements that are in place.

In 19(1) of the Bill, the wording suggests that powers can be transferred to another local board 'if the national board is of the opinion that the local board has failed, is failing or is likely to fail'. It will be important to ensure that criteria are clearly set out defining 'failure' and what this looks like for a local board. When interventions are necessary to the point of removing functions from a local board, this cannot simply be left to the 'opinion' of the national board.

Although we can understand the rationale for another local board potentially being identified to assume the transfer of a function from a failing board, the operational transfer of function is much easier to envisage in areas such as Ayrshire, Tayside and Greater Glasgow. It is much more difficult to see how this would effectively work if it concerned a co-terminus local island board such as Orkney or Shetland, for example.

Although we have no issue with the general purpose of the NCS Board, as outlined in section 12E, it is arguably constraining the national board in its remit. The section appears to be largely, if not indeed, wholly, focused on the oversight and monitoring of local boards. Orkney is one of the smallest Health and Care



systems in the country and the reporting requirements that may come with the establishment of the NCS Board and its need to fulfil that monitoring role could place additional pressure on a local system that is already under pressure. Unlike some of the larger Board areas, we do not have the same support infrastructure capacity. Although our population is smaller and overall activity levels less, the capturing and reporting requirements remain the same as other areas of the country.

The general purpose of the NCS Board as outlined in section 12B is silent on the learning from local boards that can be translated into national learning and strategy. It is also silent on the potential for the NCS Board to address national strategic challenges, such as workforce, demography and resourcing, through collaborative leadership. This is arguably a missed opportunity in being clear on the NCS Board's remit from the outset.

### 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)?

In section 12B(a)(ii) there is reference to removing alternative integration models under the Public Bodies (Joint Working) (Scotland) Act 2014. Whilst we understand the desire to move towards a consistent integration model across Scotland, it remains unclear how this aligns with other areas of government policy. For example, the current programme for government contains an aspiration to explore alternative governance arrangements such as Single Authority models. Many discussions between Orkney partners and national politicians and civil servants over the last year or two have included the subject of Single Authority models. There has been an openness, and arguably active encouragement, from government to local systems such as Orkney, to be exploring alternative governance arrangements. The removal of flexibility from the Public Bodies Act for alternative models of integration introduces a degree of dissonance to the discussions that have taken place relating to Single Authority models.

Some further clarity would be helpful in establishing how Ministers propose reconciling two apparently disparate strands of policy.

The aspiration of Government to standardise the integration model across the whole of Scotland, including the services that are delegated (which we will address in question 7) removes the flexibility of local systems to determine how best to meet local need. It would be preferable for the planning, commissioning and delivery arrangements introduced through the Public Bodies (Joint Working) (Scotland) Act 2014 be given time to embed and further strengthen, rather than focus on the development of new bodies.

As highlighted in the response to the previous question, the proposal within the legislation to rename Integration Joint Boards as 'National Care Service Local Boards' will not be without some challenges and significant work. It was also surprising to see this appear within the amendments. National discussions and stakeholder groups that officers and members from Orkney had been involved in prior to the publication of the draft amendments, had all indicated that the 'Integration Joint Board' title was the preferred one for local boards. Indeed, the proposal to rename Integration Joint Boards was not one that had been shared with accountability partners prior to the publication of the draft amendments.

#### 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)?

Whilst we welcome the aspiration for the NCS Board to have a role to play in the monitoring and improvement agenda, it remains unclear as to what this will mean for local systems. As stated in a previous answer, any additional burden placed on local systems in terms of reporting requirements has the potential to become hugely onerous. The expectations of the NCS Board will need to take account of local and national reporting cycles that already exist to ensure that that reporting requirements remain proportionate.

Section 12K(2) specifies that the NCS Board 'in deciding whether a service needs to improve' should have 'particular regard to whether it is being provided in a way that is consistent with the national care strategy and the strategic plan of the National Care Service local board that has responsibility for the service'. Although this begins to better define the criteria for determining 'failed' or 'failing' services, it remains somewhat vague. It also raises questions about the boundaries that will exist between local and national accountability for addressing service failure. There is also a concern that if there are not clear lines of accountability and responsibility then not only will the bureaucratic burden increase but that duplication of effort and/or omission could occur due to the layers of scrutiny being overly complex.

Although section 12L(4) states that ‘in preparing a support and improvement framework the Board must have regard to the importance of its work complementing, rather than duplicating, that of other public authorities’, it remains unclear as to how this will work in practice. It will be important to ensure that the support and improvement framework does not conflict with the role of another regulator and that it is able to offer supportive and effective tools when required.

It is also unclear as to which services the proposed support and improvement framework (outlined in 12L) applies to. 12K(1)(a) simply states that it is the ‘services provided by the National Care Service’. In section 35(3A) it defines this further by stating that services provided by the National Care Service are those services ‘being provided in exercise of a function delegated in pursuance of an integration scheme under the Public Bodies (Joint Working) (Scotland) Act 2014. This suggests that it would include services procured from the independent or third sector and further clarity would, therefore, be helpful.

We believe that there is undoubtedly a role for the NCS Board in undertaking national commissioning for some specialist services, however, the section on commissioning under 12M suggests that the NCS Board will be enabled to undertake procurement activity on behalf of NCS local boards, health boards and local authorities which can include any ‘goods and services’. The extent to which the NCS Board chooses to discharge this particular power, could have a significant impact on an island authority such as Orkney. The range and availability of providers in Orkney is markedly different from many mainland areas, particularly the central belt, and it is unlikely that nationally driven procurement beyond complex and specialist services would be effective or even viable for Orkney.

Locally, the Third Sector delivers a variety of services on behalf of the Integration Joint Board. It is important to recognise that the independent sector is non-existent in Orkney and that the Third Sector has a predominance of locally based organisations. Given the nature of the local market, it is highly unlikely that significant national commissioning activity would benefit Orkney and could, in fact, be detrimental.

In addition, some of our local aspiration through the Community Planning structures to further our Community Wealth Building aspiration has struggled when looking at shared local commissioning. Some of this relates to the national procurement arrangements that already exist within key partner organisations such as NHS and Police Scotland. The challenge is likely to be further compounded if the NCS Board begins commissioning beyond the complex and specialist national services.

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)?

We welcome the establishment of a National Social Work Agency to better support the social work profession and enhance the national leadership. In particular, the areas outlined within the Policy Memorandum including workforce planning, education, training and professional development are welcomed. So too is the agency's remit for driving improvement activities based on evidence.

The amendment within the revised Bill states that the Agency will be led by the National Chief Social Work Adviser who will be accountable to Scottish Ministers. Given the responsibilities of local authority Chief Executives with regards to Chief Social Work Officers at a local level, there appears to be no provision for a shared partnership with local government relating to the new agency. As such we would ask that further consideration is given as to how such a shared partnership between COSLA and Scottish Ministers could be established.

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?

Many of the amendments appear to be sensible in that they ensure that the Public Bodies (Joint Working) (Scotland) Act 2014 remains consistent with the proposed new legislation.

Further clarity would be welcomed on the proposal to insert a new amendment in Section 1(12) of the Public Bodies Act. This amendment outlines that Scottish Ministers may, by Regulations, further modify the schedule setting out the functions which must be delegated to the National Care Service.

The Minister's accompanying letter to the publication of the Stage 2 draft amendments to the National Care Service (Scotland) Bill clearly references an intention to continue the considerations relating to Children's and Justice social work services potentially being mandated. The preamble to the Public Bodies Act, however, allows for 'further provision in relation to the carrying out of functions of local authorities and Health Boards'. This raises the question as to whether the amendment to section 1(12) allows Scottish Ministers to add other functions to the schedule beyond social work and social care. Recent

discussions around Homelessness Services, although not detailed in the Minister's letter, suggest this may well be the case. Within Orkney, Homelessness Services are not currently delegated to the Integration Joint Board and any move to mandate delegation of these services to the NCS at a future point would cause significant challenge.

## 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?

The Minister's proposals, outlined within the letter dated 24 June 2024, seem reasonable in relation to how further work will be undertaken on the further areas of work. We would wish, however, to highlight some key points relating to each of these areas.

### Direct Funding

The Minister's letter highlights that it remains the Scottish Government's 'intention to introduce legislation which would give Scottish Ministers the power to directly fund reformed integration authorities for specific purposes, such as regional and national commissioning of specialist services'. At present, IJB accounts in Orkney are held on its behalf by the NHS Board and the Council. Some funding streams have been provided by Scottish Government via one or other of those bodies for specific purposes relating to IJB delegated responsibilities. This has ensured that the money is passed through without issue and it is difficult, therefore, to see how direct funding 'for specific purposes' will enhance or improve current mechanisms.

Orkney Islands Council would be keen to understand further the legal and technical implications of direct funding to Integration Authorities/local NCS boards when local authorities remain legally responsible for functions, staff and assets. We are also concerned about the potential impact upon the Local Government Settlement and how such a provision may undermine, or indeed contradict, the approach outlined in the Verity House Agreement between Scottish Government and COSLA.

### Children's Services

The services delegated to the Integration Joint Board in Orkney currently include children's health and social work services. The proposal to consider whether this should be the same across all local NCS boards is, therefore, arguably less controversial than some other areas. In Orkney, we have aligned the management structures over children's social work, health visiting and school nursing and have begun to see benefits in relation to enhancing the Getting it

Right for Every Child agenda and improving collaboration in the identification and response to child welfare and protection concerns and planning.

We would wish to highlight, however, that regardless of where these services sit (ie within the Integration Joint Board or local NCS board or under local government via, for example, an education and children's Directorate) the key to delivering effective services that improve outcomes for children, young people and their families is collaborative leadership involving all of the critical community planning partners. Previous reports and evidence, including the CELCIS report commissioned by Scottish Government for consideration in relation to NCS structural reform, highlights that good outcomes can be achieved regardless of structures.

Mandating delegation of these services could run the risk of destabilising arrangements that already work well.

There is, however, a broader issue at play in that, without a consistent approach, the NCS Board could have responsibility for Children's Services for some areas of the country and not others. There are already existing reporting mechanisms for children's services, including, for example, the National Minimum Dataset relating to child protection. There is a concern, therefore, that further reporting would be required through the NCS Board, potentially adding to the pressure on local systems.

There is also a danger of further complicating the governance and accountability arrangements that presently exist. Children's services planning is coordinated and driven through our community planning structures and not solely through the Integration Joint Board. This ensures that children's services planning, delivery and reporting has appropriate attention and scrutiny across all local partners. It remains unclear as to how the NCS Board will ensure that equal weighting is given to this agenda in the face of increasing demographic issues relating to an aging population and pressures such as increased hospital activity, delayed transfers of care and adult social care challenges.

### Justice Services

Like Children's Social Work Services, Justice Social Work in Orkney is also delegated to the Integration Joint Board. The points made relating to Children's Services outlined in the previous section can be similarly made in relation to Justice Services. The Community Justice Partnership locally, as an integral part of our wider CPP structures, recognises the importance of multi-agency collaboration to effectively deliver safer communities and ensure that those involved with the justice system are appropriately supported.

With Community Planning Partnerships, local care boards and the NCS Board all having responsibilities there is, similar to Children's Services, a danger of further

complicating the governance, reporting and accountability arrangements. This is arguably further compounded within the Justice agenda, given the existence of Community Justice Scotland. It will be important that further work in relation to this takes accounts of these complexities.

### Anne's Law

We are fully supportive of the principles of Anne's Law and committed to ensuring that we recognise care homes as people's homes first and foremost, not clinical settings. We are also supportive of ensuring that we maximise the rights of family and friends to visit loved ones residing in care homes. We realise that these rights must be balanced against considerations relating to health and safety, safeguarding and the clinical advice of public health professionals.

Future discussions considering the implementation of the principles underpinning Anne's Law, must consider the unique practical challenges of an island community. All three care homes in Orkney are based on the Orkney mainland and for residents who moved to these establishments from some of our ferry and air-linked isles, their family and loved ones remain on those isles. In order to visit the care home, public transport is a necessity, either via plane or ferry. Whilst the care homes may be able to facilitate visits in a way that was not possible during the COVID pandemic, consideration must be given to the practicality for those living on our outer islands, in even getting to the care home.

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

We support the principle of a Charter for a National Care Service, recognising that this Charter brings together strands of rights that already exist.

It will be important to ensure that the Charter does not create unrealistic expectations, however, particularly in light of current financial constraints on all aspects of public service delivery.

In Chapter 1 of the Bill, section 1(b), it clearly states that 'services provided by the National Care Service must be financially stable in order to give people long-term security'. This appears to be poles apart from the findings of the recent Accounts Commission report, published in July 2024 which states that the financial health of Integration Joint Boards continues to weaken and found that financial sustainability risks have been identified by auditors in the vast majority of IJBs. It seems clear that unless this dichotomy is addressed, the National Care Service will be underfunded from its inception.



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

Orkney Islands Council is committed to exploring all avenues in relation to improving the quality and consistency of health and care services. We remain, however, concerned that the drive for national consistency will fail to take account of our unique islands' context. Unlike many other areas of Scotland, there is no independent sector supporting the delivery of social care or the provision of residential or nursing care. The costs of delivering these services in a remote and rural setting are prohibitive for companies looking to extract profit. A National Care Service that has responsibility for delivery of services across Scotland could quickly lose sight, not only of the variation in costs incurred at the local level but also the variation in the market landscape across different areas. The significant work and focus that is generated each year in agreeing the National Care Home Contract, for example, has no impact on Orkney as all residential care is delivered via in-house provision.

We remain concerned also about the expectations being raised through the Bill, albeit committed to the sentiment of this. The requirement for the provision of short breaks, for example, is one that should be welcomed but the practicalities of delivery on this, for an islands authority like Orkney, cannot be underestimated. With more than 10% of our overall population residing on 10 smaller islands, there is no ability to provide sustainable residential respite resource on these islands. For many who would benefit from short breaks, and their families, they do not necessarily wish to travel to the Orkney mainland for this purpose. Even for those that do, the transport challenge for some can be hugely challenging, if not impossible, when reliant on passenger ferry and air travel. To involve air ambulance via the Scottish Ambulance Service in facilitating transport in such circumstances becomes hugely prohibitive in relation to costs and takes up a resource that could be required for emergency response. These factors are understood locally but we remain unconvinced that a National Care Service Board will acquire and retain that understanding when considering initiatives and improvements for the whole country.

Finally, we are anxious to ensure that the islands' impact assessment undertaken in relation to the Bill fully considers the context and complexity of different island groups. The factors affecting Shetland are likely to be different from those affecting Orkney, for example, and the islands should not, therefore, be assessed homogeneously. The Scottish Government is currently engaging local third sector interfaces to conduct consultation with a view to informing the islands impact assessment. Unfortunately, the TSIs are not always well-resourced to



undertake such work and, whilst the in the Orkney context, our own TSI (Voluntary Action Orkney) is doing what it can, it is unlikely to garner significant numbers of views that would meaningfully assist in the preparation of a well-informed islands impact assessment. It will be critical that local systems are able to feed in further to the construction of the assessment.