

*Scottish Borders Health & Social Care
Integration Joint Board*



Meeting Date: 17 August 2022

Report By:	Chris Myers, Chief Officer Hazel Robertson, Chief Financial Officer
Contact:	Chris Myers, Chief Officer Hazel Robertson, Chief Financial Officer
Contact:	Via Microsoft Teams
INTEGRATION JOINT BOARD NATIONAL CARE SERVICE RESPONSE	
Purpose of Report:	<p>To seek comments, and seek agreement on the Scottish Health and Social Care Integration Joint Board's response to the Scottish Parliament Health, Social Care and Sport Committee's 'Call for Views' and 'Your Priorities' consultations on the National Care Service.</p> <p>In addition Integration Joint Board members are asked to endorse joint working with partners in the Scottish Borders Council and NHS Borders to strategically manage the situation and to put the Scottish Borders forward as a local pathfinder to support the development of the Bill.</p>
Recommendations:	<p>The Scottish Borders Health and Social Care Integration Joint Board is asked to:</p> <ol style="list-style-type: none"> a) Consider the response developed b) Provide any further comments c) Approve a finalised response for submission to the Scottish Parliament's 'Call for Views' and 'Your Priorities' consultations d) Agree to the principle of progressing discussions with the Scottish Borders Council, NHS Borders and Scottish Government to explore the potential for a local pathfinder to support the development of the Bill
Personnel:	<p>The proposed National Care Service will affect all staff working in Health and Social Care.</p> <p>At this stage the impacts on staff are unclear, as the Bill represents primary legislation which has not been finalised. As it stands, the staff most likely to be most directly affected would be Adult Social Work and Social Care Commissioning staff, along with a number of local authority staff who provide support to these Social Care commissioning and Adult Social Work Services. In addition, the Bill proposes that there would be a process of local determination of whether the internal provision of Social Care continues to be provided by Local Authorities, or by the new proposed Local Care Boards.</p>

	<p>The impacts will be further considered at the next Integration Joint Board Joint Staff Forum.</p>
Carers:	<p>Impacts on carers have been considered as part of the national Equalities Impact Assessment that has been undertaken.</p> <p>The NCS aims to establish a statutory right to breaks from caring for all unpaid carers, adult and young carers. Possible barriers to this being achieved have been noted as:</p> <ul style="list-style-type: none"> • Carers not coming forward and not engaging with local support • Carers not having the time to engage or prioritise themselves • Availability and range of breaks and services, particularly for those with intense or specialist needs and those living in rural areas • Resources/cost • Availability of local support capacity to identify individual's needs and provide advice • Availability of replacement care services, if required <p>As part of the consultation for this response, due to the timescales for the Call for Views, we have not been able to fully engage with the Carers workstream at this stage, however, invited all members of the Integration Joint Board to respond to our consultation which informed this response, including the Integration Joint Board's unpaid carers representative.</p> <p>The impacts will be further considered at the next Integration Joint Board Carers Workstream.</p>
Equalities:	<p>The national Equalities Impact Assessment is available from the following link:</p> <p>https://www.gov.scot/publications/national-care-service-equality-impact-assessment/</p>
Financial:	<p>The Financial Memorandum is available at https://www.parliament.scot/bills-and-laws/bills/national-care-service-scotland-bill/introduced</p> <p>The responses pertaining to the Financial Memorandum questions are enclosed. These have been developed by the Integration Joint Board's Chief Financial Officer, following consideration of the financial consequences as they are currently outlined at a national level.</p>
Legal:	<p>Statements on legislative competence are outlined at: https://www.parliament.scot/bills-and-laws/bills/national-care-service-scotland-bill/introduced</p>

	<p>There is a three stage legislative process within the Scottish Parliament. At this current stage, the Bill is in stage 1.</p> <p>This Bill is an enabling Bill (primary legislation). At a later date it is expected that further clarity will be</p>
Risk Implications:	<p>It is important to note that the proposed reforms will mean that Integration Joint Boards as they are currently comprised would no longer exist. However the reform proposes further powers for the new local Care Boards that build on the current Integration Joint Board functions.</p> <p>Work has commenced with the risk team supporting the Integration Joint Board to create a new strategic risk on the risk register. As part of this risk management approach, mitigations are already being considered. There have been good discussions between the Chief Officer, and the Integration Joint Board's strategic partners in the Scottish Borders Council and NHS Borders to discuss the way forward. A collaborative approach to strategically manage the situation has been proposed, and potentially to put the Scottish Borders forward as a pathfinder to help inform the development of the Bill. Further detail is enclosed in section 2.</p>
Direction required:	No

1. Introduction

On 8 July, the Scottish Parliament's Health, Social Care and Sport Committee informed Integration Joint Board Chief Officers that their 'Call for Views' and 'Your Priorities' Digital consultations on the National Care Service had opened. The deadline for submissions is Friday 2 September.

The 'Call for Views' includes general questions about the Bill, questions about the Financial Memorandum and the option to provide more detailed comments on individual sections of the Bill. It is primarily aimed at groups and organisations who are looking to input their views on the Bill.

The 'Your Priorities' consultation offers an opportunity to ask questions or to highlight specific hopes or concerns about the Bill. Respondents can also rate specific provisions in the Bill and make brief comments about them.

2. Local process

The Bill and accompanying documentation has been reviewed by the Chief Officer and the Financial Memorandum has been reviewed by the Chief Financial Officer.

A local online questionnaire was developed and shared with Integration Joint Board and Strategic Planning Group members to support the development of the responses to these consultations. A response was then developed based on these responses, and discussed with the Chair of the Integration Joint Board. This response is enclosed in Appendix 1.

Unfortunately due to the short timescales involved in the consultation process, it has not been possible to more broadly consult on this locally at this stage. However discussion will happen with key stakeholder groups over the coming months and years as we work to strategically manage the impacts of the National Care Service.

The proposed National Care Service and additional proposed investment comes with a number of major opportunities and benefits which would assist with the implementation of integration agenda and improvements in outcomes. However it is also important to note that due to the major structural changes proposed, there are a number of risks.

As a result, the Chief Officer has asked the risk team that support the Integration Joint Board to log the risks associated with the development of the new National Care Service, which will support the risk management approach.

In summary, the key risks which may make the outcomes being sought by the Integration Joint Board harder to achieve are listed below:

- There is a risk relating to workforce recruitment and retention through this period of change
- There is a risk relating to partner engagement through this period
- There is a risk that the workload associated to the strategic management of the new National Care Service, which may divert resource away from the core business of the Integration Joint Board
- There is a risk that some of the current integrated arrangements between the Integration Joint Board and its partners in the Scottish Borders Council and NHS Borders are affected

- There is a risk that the transfer of some services from Local Authority and NHS Board to the new Care Board impact on the delivery of services affected due to key interdependencies with other Local Authority and NHS Board services

3. Local considerations

3.1. Closer joint working

As part of the regular series of meetings between the leadership of the Integration Joint Board, Scottish Borders Council and NHS Borders, a discussion has occurred on the high-level considerations of each organisation in how the development of the National Care Service is strategically managed locally.

It was clear that all three organisations are keen to put what is best for the people of the Scottish Borders first, and are keen to work together closely, constructively and collaboratively in order to facilitate this, in recognising that by working together we are likely to reduce risks throughout the process and secure a better outcome for the communities of the Scottish Borders.

3.2. Pathfinder to inform the development of the National Care Service

In a meeting with Chief Officers on 18 July, the Minister for Mental Health and Social Care, Kevin Stewart MSP asked whether areas would like to put themselves forward as a test of change to consider and apply the principles of the National Care Service Bill, to help inform the ongoing development of the National Care Service.

When considering the opportunities that this could bring in relation to our local context in covering a large remote and rural area with a relatively small population, with strong local communities, and the co-terminosity and desire to collaborate between the Integration Joint Board, Scottish Borders Council and NHS Borders as the three statutory partners involved in Health and Social Care; a pathfinder would present an opportunity to further the integration agenda and help to inform the future direction of travel for the National Care Service.

As part of this, Health and Social Care Integration Joint Board members are asked:

1. To support a request to the Scottish Government to indicate that the Integration Joint Board would like to put itself forward to the Scottish Government as a local pathfinder area to test the adoption of the principles of the National Care Service Bill.

To facilitate this approach, this would require closer joint working with the Scottish Borders Council and NHS Borders.

Should this be supported, as part of this we would commit to adopt a pragmatic approach which works in line with our respective responsibilities to deliver best value by promoting the efficient, economic and effective use of staff and other resources, and where appropriate participation in shared service arrangements (i.e. on a formally agreed and resourced basis rather than a 'grace and favour' basis).

In addition, we would commit to ensure that effective arrangements are in place to provide assurance on risk management, governance and internal control. It is important to note

that as this would need to reflect the arrangements of the Bill and the principles of the proposed National Care Service as closely as possible within the existing legal framework, that there may need to be further changes required to the Scheme of Integration to facilitate this.

Through closer collaboration both with our local statutory health and social care partners, and with the Scottish Government, this approach will reduce the risks to the Integration Joint Board.

4. Recommendations

The Scottish Borders Health and Social Care Integration Joint Board is asked to:

- a) Consider the response developed
- b) Provide any further comments
- c) Agree to a finalised response for submission to the Scottish Parliament's 'Call for Views' and 'Your Priorities' consultations
- d) Agree to the principle of progressing discussions with the Scottish Borders Council, NHS Borders and Scottish Government to explore the potential for a local pathfinder to support the development of the Bill

4. Appendix 1

Proposed Scottish Borders Health and Social Care Integration Joint Board response to the National Care Service ‘Call for Views’ consultation

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?

We are supportive of the aspirations of the Bill, and believe that broadly speaking, the Bill could be successful in achieving this stated aim. However it is hard to determine this due to the lack of detail made available in the Bill. We need more clarity on the potential operational form of Care Boards to help answer a number of these consultation questions appropriately.

Within our broader submission we offer a number of suggestions on how to improve the Bill to better achieve its existing aim, to reduce risks, improve outcomes and value for money.

In addition we would suggest that the purpose of the Bill should be “to improve the quality and consistency of health, social work and social care services in Scotland.” We would also suggest that there is more focus on the needs of people and our communities, who need to be put at the centre of the Bill, in line with the recommendations of the Feeley review.

We welcome the focus on improving quality and consistency of social work and social care services, and the opportunity to further develop the integration of health and social care for our local population. However we would note an element of caution around the unintended balancing impacts of the transfer of services to new Care Boards from Local Authorities and NHS Boards, in relation to the potential fragmentation of service and impacts on our statutory delivery partners.

However, the Bill is very focused on the structural and organisational issues for Social Work and Social Care. Along with the structural changes proposed, it is important to not lose sight of the need to continue to focus on workforce training, recruitment and retention, the ongoing integration of health and social care services, consistency of service provision, and overall funding for frontline Social Work and Social Care service delivery.

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?

Much of the Bill will certainly make a big difference in improving the quality and consistency of social work and social care services, including the investment into frontline services and the development of a National Social Work Agency.

There are other ways in which the aims could be achieved, that could also be explored:

- Use of the model used by Education services, which is nationally overseen from a consistency and quality perspective, and locally delivered
- Use of the Lead agency model

- Unitary public
- Further statutory guidance / performance management could be issued to support Integration Joint Boards to achieve their aims locally in line with existing legislation

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

We recognise that there will need to be investment in developing the local Care Board infrastructure, but due to the scale of the extra investment proposed into the administrative infrastructure of Care Boards (£142-376m per annum); it is our view that these costs should be reviewed with an aim to invest more into social care and social work service delivery, or into other associated pressures. This is all the more important in the context of the current challenging fiscal environment.

The secondary legislation will clearly be helpful in clarifying the full intent and direction of travel, however early clarity will be needed in primary legislation on the role of the new Care Boards in the planning and commissioning of their functions, and in the operational delivery and management of their functions. In line with this, we would hope to receive clarity on the scope of these Care Boards, including whether Health services are included as in or out of scope from a commissioning and a delivery perspective.

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

Explicit provisions allowing and encouraging local communities to establish a single, truly integrated health and social care commissioning and delivery body, with real engagement of that community and the ability to plan and deliver care across the system.

There is a particular opportunity to undertake this approach within the Scottish Borders and this is of particular relevance to remote, rural, island and areas with co-terminous Integration Joint Boards, Local Authorities and Health Boards.

This approach would provide a real opportunity to unify service delivery in a consistent way with a single expanded and co-terminous integrated authority and support improvements in local outcomes within this context.

This could be facilitated using a participatory framework approach, with the options of a single Care Board or Single Health and Care Board.

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?

Whilst recognising that secondary legislation will ensure that national co-production can take place, the approach undertaken leaves a lot of uncertainty about the future model, and so makes it difficult to strategically manage the situation and its impacts at a local

level. It is important to recognise the impacts that this uncertainty has on staff and partners working across Social Care, Social Work and Health, and so further clarity would be welcomed.

- 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?**

Should a Care Board structure be established then the core delegated services listed in the Public Bodies Act should be part of this. Should the review of children's and justice services recommend that these services are also in scope, then these should also be delegated.

It is important to note that the delivery of social work and of social care is sensitive to a range of local factors and is (and should be) inextricably part of a whole system of local care, including but not limited to housing, communities, education, economic development and secondary care. As a result, it is important that there is a significant level of consultation and consideration of balancing impacts of any transfer of services.

- 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?**

At this stage there is insufficient detail about the Bill to allow for a robust financial assessment. Comments on financial implications will be detailed in full as part of the Health and Social Care Scotland response to the Consultation on behalf of all Integration Authorities.

The administrative costs of the National Care Service and Care Boards are very high and lead to less financial resource for service delivery. Whilst recognising that there is a pre-requisite to cover the overhead costs of these new organisations, it is suggested that these costs are reviewed in the context of the delivery models being considered to maximise value for money.

- 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](#)

- 9. 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?**

In addition to the island communities impact assessment, we would suggest that a remote and rural impact assessment is also undertaken.

There are risks in separating social care and social work services from local authorities, as these services are interdependent on the broader local authority portfolio of services including (but not exclusively) housing, communities, transport, sport, business and the local economy and education. In addition, there are risks related to the separation of primary and secondary care, and also between primary care, community health social care and social work services.

10. Financial memorandum questions

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

Scottish Borders Integration Joint Board members have commented as part of the previous National Care Service consultation. However members have not had the opportunity to comment on the financial assumptions made in the National Care Service Financial Memorandum until this stage.

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

Not applicable.

- **Did you have sufficient time to contribute to the consultation exercise?**

Timescales have been very tight and have not permitted full local engagement.

- **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.**

Provisions for the administration costs of Local Care Boards are required and welcomed, but do appear to be high when considering the potential transfer of staff from Local Authorities. For the Scottish Borders, based on NRAC share this would represent between £3-8m per annum. However at this stage as we are not clear on the level of structures required within Care Boards, it may be that these are required. We also provide comment on other areas of uncertainty relating to the financial assumptions in the sections below.

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

We do not believe this is a case for a range of reasons. These will be detailed in full as part of the Health and Social Care Scotland response to the Consultation on behalf of all Integration Authorities.

Using 3% as an overall inflation figure may not be adequate to reflect increased demand due to increase inflationary costs and needs, particularly when considering pay inflation which is likely to be substantial. It would be helpful for Integration Joint Board Chief Financial Officers to receive more information on the modelling assumptions.

Given the learning from the NHS Agenda for Change process, it is unclear on how realistic the timescale is to move to national terms and conditions and the associated funding impact.

- **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?**

The inflationary and VAT issues have been noted and it these are likely to cause a significant cost pressure. A reduction in the core administration costs may help to assist with this. In addition, the development of shared services may need to be promoted with Health Boards and Local Authorities. However at this stage there is insufficient detail to be able to cost this appropriately due to the uncertainty of the primary legislation.

- **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?**

There is uncertainty in the areas below which need to be explored by the national policy and finance teams in further detail:

- Impacts of the change to VAT status of Care Boards
- The impacts of inflation
- The financial impacts of any changes to Terms and Conditions, and the associated timescales. These need to be considered appropriately in the context of the negotiations required.
- The pensions position
- Data and digital costs

11. 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?**

There seems little in the bill around Primary Care and the role of GPs, Community Pharmacists, Dentists, and Optometrists in the Care Service.

It is important to consider that the impacts of the Bill will be experienced differently in different parts of Scotland. As a result, as previously noted, flexibility in delivery models according to local circumstances needs to be considered as circumstances across large remote and rural areas like the Scottish Borders will be different to urban populations.

Proposed Scottish Borders Health and Social Care Integration Joint Board response to the National Care Service 'Your Priorities' consultation

Do you have any specific questions on the Bill?

- How will the seamless delivery of health and social care services be delivered in the Bill
- How will the playing field be levelled in terms of the resources and infrastructure available to Care Boards, which have different baselines
- How can the Bill be developed on the basis of the principles set out by the Christie Commission and the Feeley Review
- How can the Bill put the person at the heart of the Bill

Do you have any specific hopes for the Bill?

- That it achieves the best outcome for our local population in the Scottish Borders. As part of this our aspiration would be to see an integrated Care Board that covers the Scottish Borders area and that provides seamless services to our population, with continued flexibility to have localism of planning and delivery with our local population, the third sector, independent sector, primary care and statutory partners.
- That it will achieve its core and stated aim of providing care to individuals without duplication of assessment or complex bureaucracy in a fair and equitable way, and supports an improvement of outcomes
- That it will encompass level standards and quality for all providers including the Independent and Third Sectors
- That integration of health and social care services continues to be promoted under the Act when legislated
- That staff are supported through the process, with a national steer on messaging during what is an uncertain time
- That unpaid carers are able to receive the support they need
- That it provides flexibility in terms of delivery models
- That there is the opportunity for the Scottish Borders Integration Joint Board to work in partnership with the Scottish Borders Council and NHS Borders to work as a test of change locally
- That the Bill will build on the best of the existing IJB systems
- That the Bill includes explicit provisions allowing and encouraging local communities to establish a single, truly integrated health and social care commissioning and delivery body, with real engagement of that community and the ability to plan and deliver care across the system.

Do you have any specific concerns about the Bill?

- That as currently written it would appear that the Bill will lead to a fragmentation of a Unified Health system across Primary & Secondary (or Acute and Community health, or Health and Social Care). This would appear to be a backwards step and risk leaving whole system health and social care planning split between multiple bodies.

- That the Bill focuses on the structural / accountability issues for Social Care and Social Work. While this may need to be addressed the key issues that will lead to improvements in Social Care on the ground will not in themselves be addressed by structural change (i.e. workforce gaps, consistency of service provision, overall funding for frontline Social Care)
- That the focus on structural and legislative change may lead to a lack of focus and resources for the key issues that will deliver real improvement in social care services and users experience – the focus needs to be on ‘the people’
- High costs of the administrative functions of the National Care Service and Care Board structures, and low estimates of other key costs (as noted in our response to the Financial Memorandum section)