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## **NATIONAL CARE SERVICE (SCOTLAND) BILL CONSULTATION RESPONSE**

**Report by Joint Director of Health and Social Care Integration**

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### **SCOTTISH BORDERS COUNCIL**

**25 August 2022**

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#### **1 PURPOSE AND SUMMARY**

- 1.1 This report proposes that the enclosed response is endorsed as the Scottish Borders Council response to the Scottish Parliament Health, Social Care and Sport Committee 'Call for Views' and 'Your Priorities' for the National Care Service (Scotland) Bill consultation.**
- 1.2 Following the introduction of the National Care Service (Scotland) Bill to the Scottish Parliament on 20 June 2022, as part of stage 1 of the Scottish Parliamentary legislative process, the Scottish Parliament Health, Social Care and Sport Committee launched a 'Call for Views' and a 'Your Priorities' consultation on 8 July 2022. Both consultations close on 2 September 2022.
- 1.3 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.
- 1.4 Following publication of the National Care Service Bill on 20 June 2022, as part of stage 1 of the Scottish Parliamentary legislative process, the Scottish Parliament Health, Social Care and Sport Committee launched a 'Call for Views' and a 'Your Priorities' consultation on 8 July 2022.

#### **2 RECOMMENDATIONS**

**2.1 I recommend that the Scottish Borders Council:-**

- (a) endorses the response detailed in Appendix A as the Scottish Borders Council's consultation response to the Scottish Parliament Health, Social Care and Sport Committee's consultation as part of stage 1 of the National Care Service (Scotland) Bill legislative process;**

- (b) supports a local test of change in line with the purpose of the proposed National Care Service in partnership with NHS Borders and the Scottish Borders Health and Social Care Integration Joint Board, within the current legislative framework; and**
- (c) endorses the approach that the Leader be remitted to write to the Minister for Mental Health and Social Care setting out the proposal for a Scottish Borders test of change as per the recommendation at paragraph (b) above.**

### **3 BACKGROUND**

- 3.1 Following publication of the report of the Independent Review of Adult Social Care in February 2021, in August 2021, the Scottish Government published its consultation on the creation of a National Care Service in Scotland. The proposals set out were significant and will result in a fundamental change to the role of local government in Scotland, if implemented. Amongst the recommendations, to help drive improvement in the sector, was the establishment of a National Care Service in Scotland.
- 3.2 A response to the Scottish Government consultation was approved by the Scottish Borders Council on 28 October 2021.
- 3.3 On 20 June 2022, the National Care Service Bill was introduced to the Scottish Parliament. The purpose of the National Care Service (Scotland) Bill "is to improve the quality and consistency of social services in Scotland."
- 3.4 The Bill proposes that Local Care Boards would be established as new organisations, directly accountable to Scottish Ministers. These Care Boards would undertake the strategic commissioning of Social Care, Social Work and Community Health services in a similar way to Integration Authorities (Integration Joint Boards). Local Care Boards would also operationally manage Adult Social Work and Social Care commissioning functions. In addition, provisions have been made in the Bill to facilitate a transfer of Children's and Justice Social Work services should a further consultation recommend that this is the case. Scottish Ministers will also be able to transfer Healthcare functions from the NHS to the National Care Service.
- 3.5 Local Government will have the option to determine whether it would become a care provider alongside the private and voluntary sectors, and would be commissioned to deliver services on behalf of the National Care Service.
- 3.6 Part 2 of the Bill allows for information sharing and information standards and is intended to underpin the creation of the nationally-consistent, integrated and accessible electronic Social Care and Health record. This is intended to help professionals to support individuals in a more co-ordinated way, and support national and local planning and commissioning.
- 3.7 Part 3 makes additional reforms to the delivery and regulation of care. It introduces a right to breaks from unpaid caring, and Anne's Law, to give people living in care homes a right to maintain contact with family and friends. It makes changes to the powers of the Care Inspectorate and Health Improvement Scotland.
- 3.8 There is a commitment to co-design the detail of the new system by engaging with people with experience of accessing services, including unpaid carers, and with those who provide it. As a result, there is a lack of detail in many areas where co-design will occur. Some of those future decisions will be implemented through secondary legislation, others will be for policy and practice. This does leave a number of 'unknown unknowns' within the Bill.

- 3.9 A potential opportunity exists in this area for the Scottish Borders in the potential to undertake a test of change in line with the purpose of the Bill, within the current legislative framework.

## **4 THE COUNCIL RESPONSE**

- 4.1 The approach to a Council consultation response was discussed with political group leaders. Political group leaders noted that the response should ensure that the interests of the people of the Scottish Borders are put at the forefront of both the Consultation response, and of the approach undertaken to strategically manage the situation throughout the legislative and implementation phases of the National Care Service (Scotland) Bill.
- 4.2 The National Care Service (Scotland) Bill was also discussed with Elected Members. Elected Members recognised that:
- 4.2.1 If possible, a single consultation response from the Scottish Borders Council should be agreed, accepting that professional associations and other stakeholders within the Scottish Borders may wish to make their own representations
- 4.2.2 Unlike many areas, the Scottish Borders covers a large remote and rural area, has strong local communities, and has good and mature working relationship with its coterminous statutory partners in NHS Borders and the Scottish Borders Health and Social Care Integration Joint Board. As a result, there is a potential opportunity to help shape the approach to the development of the Bill, and support local stewardship through working to undertake a local test of change within the existing legislative framework (i.e. the Public Bodies (Joint Working) (Scotland) Act 2014.
- 4.2.3 This would require an approach to work in partnership with NHS Borders and the Scottish Borders Health and Social Care Integration Joint Board as the two other coterminous statutory organisations involved in the provision of Adult Social Care, Social Work and Health services for the Scottish Borders.
- 4.2.4 Should Council' and these organisations also support this approach, then a joint letter from the three statutory partners would be drafted to the Scottish Government outlining the willingness to undertake a test of change in line with the purpose stated within the Bill. This test of change would aim to co-produce a local solution to the delivery of Health and Social Care services for the Borders that delivers the best possible health and care outcomes for local people, ensuring the benefits of technology are leveraged to the maximum extent possible and that resources are pooled and deployed effectively. This may require a further review of the Scheme of Integration.
- 4.3 Elected Members and the Council Strategic Leadership team have had the opportunity to provide feedback on the consultation document. Appendix A is now presented for approval as the Scottish Borders Council Response to the Scottish Parliament National Care Service (Scotland) Bill 'Call for Views'

and 'Your Priorities' consultations. Subject to Council approval, the responses will be finalised and submitted to Scottish Government in advance of the formal deadline for responses on 2 September 2022.

## **5 IMPLICATIONS**

### **5.1 Financial**

- (a) As the present report is concerned with a response to a Scottish Government consultation, there are no costs attached to any of the recommendations contained in this report. However, if implemented the proposals in the consultation document would have very significant consequences for the Council's finances.
- (b) These are noted at a high level in the Financial Memorandum to the National Care Service (Scotland) Bill. As far as is possible, the draft consultation response (Appendix A) seeks to identify these consequences.

### **5.2 Risk and Mitigations**

- (a) Given the significance of the proposals within the consultation document on a National Care Service for Councils generally and Scottish Borders Council specifically, the chief risks associated with this report are that the Council either fails to respond to the consultation or submits a response which fails adequately to address the issues raised by the consultation from a Council standpoint and a Scottish Borders' perspective.
- (b) The draft consultation response (Appendix A) which is submitted for Council approval is intended to address these risks.
- (c) In addition, as the impacts on the functions of the Scottish Borders Council will potentially be significant, a Strategic Risk has been logged for the Council and, once more detail is known, Officers will work with the Portfolio Holders and Members to more fully evaluate and manage the risk.

### **5.3 Integrated Impact Assessment**

The Scottish Government has published 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](#)

As the present report is concerned with Scottish Government proposals on a National Care Service for Scotland set out within a consultation document, no Integrated Impact Assessment has been undertaken locally. This position will be revisited once we have more clarity on the Bill.

#### 5.4 **Sustainable Development Goals**

As the present report is concerned with Scottish Government proposals on a National Care Service (Scotland) Bill set out within a consultation document, no specific Council contribution to the UN SDGs has been identified.

#### 5.5 **Climate Change**

As the present report is concerned with Scottish Government proposals on a National Care Service (Scotland) Bill set out within a consultation document, no specific climate change implications are currently identified.

#### 5.6 **Rural Proofing**

This report does not relate to a new or amended policy or strategy promoted by Scottish Borders Council. However, the proposals set out in the consultation document could have implications for rural areas, and the draft response (Appendix A) seeks to highlight implications for remote and rural areas, and indeed requests that a national Remote and Rural impact assessment is undertaken.

#### 5.7 **Data Protection Impact Statement**

There are no personal data implications arising from the proposals contained within this report.

#### 5.8 **Changes to Scheme of Administration or Scheme of Delegation**

There are no implications for the Scheme of Administration or Scheme of Delegation arising from the proposals contained in this report.

## 6 **CONSULTATION**

- 6.1 The Acting Chief Financial Officer, the Monitoring Officer/Chief Legal Officer, the Chief Officer Audit and Risk, the Director (People Performance & Change), the Clerk to the Council and Corporate Communications have been consulted.

### **Approved by**

**Chris Myers**

**Joint Director of Health and Social Care  
Integration**

### **Author(s)**

Name	Designation and Contact Number
Chris Myers	Joint Director of Health and Social Care Integration
Michael Cook	Senior Policy Advisor 01835 825590

### **Background Papers: N/A**

**Previous Minute Reference:** Scottish Borders Council, 28 October 2021

**Note** – You can get this document on tape, in Braille, large print and various computer formats by contacting the address below. Michael Cook can also give information on other language translations as well as providing additional copies.

Contact us at Michael Cook, Senior Policy Advisor, Scottish Borders Council,  
Council HQ, Newtown St Boswells, Melrose TD6 0SA  
Michael.Cook@scotborders.gov.uk

## **Appendix A: Proposed Scottish Borders Council response to the National Care Service 'Call for Views' and 'Your Priorities' consultations**

### **1. Call for Views**

#### **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?**

The Scottish Borders Council is entirely supportive of the aim to improve the quality and consistency for Social Work and Social Care services. However, we do not believe that the National Care Service Bill will be successful in achieving this aim. We also do not believe that the Care Board will meet the outcomes of the Feeley Report with regards to providing efficient, effective and person centred services for people who need and use Health and Social Care Services in this large rural area which faces very real and specific service delivery challenges for our 115,000 people. These correspondingly need locally developed, co-produced, innovative solutions that best meet the needs of local people.

The Bill is currently very focused on the structural and organisational issues for Social Work and Social Care. We would suggest that the focus is shifted entirely to best serve 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.

There are many other ways to ensure improved quality and consistency in Social Work and Social Care, across Local Authority / Health and Social Care Partnership areas. 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.

The Scottish Borders covers a vast remote and rural area covering the sixth largest geographical Health and Social Care Partnership area in Scotland, with strong localism.

The Scottish Borders Council has close and healthy partnerships with NHS Borders, the Integration Joint Board, the public, unpaid carers, our staff and third and independent sector partners, who work closely together with our communities to deliver improved outcomes across the Scottish Borders.

We have had discussions with our statutory partner organisations about our respective consultation responses, and would propose that we work collectively to undertake a local test of change to pilot the purpose of the Bill within the existing legislative framework for the people of the Scottish Borders, which will help inform the development of the Bill. This would be of benefit and support to not only our local population, but also our staff, unpaid carers, and our independent sector, third sector and primary care partners during what is an extremely challenging time for adult Social Care, Social Work and Health services and their staff.

This model would be to deliver the purpose of the Bill in a seamless integrated way, and the best possible outcomes for the people of the Scottish Borders, our staff, and our third and independent sector partners.

We have a number of key local enablers that would allow this to happen: 1. Coterminal statutory organisations involved in the delivery of Social Care, Social Work and Health over a large remote and rural area; 2. Local ambition with a strong and cohesive approach to public stewardship in our local partnership arrangements; 3. Strong local communities; 4. Local digital enablers through many years of work with our staff and partners to develop our Health and Social Care digital infrastructure across the Health Service and the Local Authority. This work means we would be ideally placed to pilot a test of change that would maximise the benefits of digital technology for the benefit of local people.

Social Work and Social Care services are part of an ecosystem where they are interdependent with a range of Local Authority services, including housing, economic development and employment, transport, communities, and education. In addition, they are also closely interdependent with Health services. The proposed transfer of functions from Local Authorities to Care Boards under the current Bill will have fundamental impacts on the functioning of wider Council services, as well as Social Care, Social Work and Health services. We believe these changes will fundamentally affect the capacity of the organisation, removing critical mass, and reducing capacity to respond to local and national policy imperatives.

Whilst there are a number of limitations with the current legislative framework set out in the Public Bodies (Joint Working) (Scotland) Act 2014, one of the benefits of this Act is that it recognises these interdependencies and builds on the Christie Commission in bringing public service (and independent / third sector) providers and wider communities closer together, to work in partnership to integrate service provision and thus improve the outcomes they achieve. As a result, we would suggest that the purpose of the Bill should be broadened to the following: "to improve the quality and consistency of Health, Social Work and Social Care services in Scotland." In addition, on this basis, we are concerned that there is the potential for different national leadership with a separate Cabinet Secretary for Social Care / Social Work, to the Cabinet Secretary of Health, which is not likely to support the integration agenda.

There are economies of scale in the services in scope of the Bill working closely and in an integrated way with these other services and partners. There are also benefits in ensuring that this ecosystem works well for all people in the Scottish Borders. We are unclear on the rationale for transferring Social Work and Social Care services from Councils into new Local Care Boards, which will have negative impacts on the wider ecosystem of services for our local population. As part of the development of the Bill, we suggest that it is essential to assess and balance the impacts of the proposed changes to Health and Social Care structures on other services and on those who use these services.

The Council is very concerned about the future resourcing of the new National Care Service and the implications of that resourcing for funding of its own service delivery. The fact of the matter is that Health and Social Care has experienced chronic underfunding for decades, with financial/demand challenges particularly acute since the 2008 financial crisis and subsequent period of austerity. In its Programme for Government for 2021/2022, Scottish Government stated "as a minimum we will increase public investment in Social Care by 25% over this Parliament – providing over £800 million more by 2026-27". This must be juxtaposed with the evidence of the Resource Spending Review published in May 2022, which projects a 7% cut in real terms in Local Government's "core" resource budget over the same period.



By prioritising Health and Social Security, the Council is deeply concerned by the extent to which other parts of the Budget will be squeezed.

Accepting that the National Care Service is a priority for Scottish Government, Ministers must take care to ensure that its resource prioritisation does not undermine other service delivery across local government, recognising that such service delivery is typically part of a holistic whole as per the Christie principles.

## **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?**

Some of the Bill will make a 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 of the Bill could be achieved, that could also be explored:

- Further statutory guidance could be issued to support Local Authorities, Health Boards and Integration Joint Boards to achieve their aims locally in line with existing legislation
- A new line of Ministerial accountability and national sponsorship could be developed for Integration Joint Boards, who would retain their current membership, and would remain the commissioners (rather than providers) of delegated services, provided by Local Authorities, Health Boards, the Independent, Primary Care and Third Sectors
- Use of the model used by Education services, which is nationally overseen from a consistency and quality perspective, and is locally delivered by Local Authorities

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

We do not agree with the transfer of Social Work, Social Care and supporting functions from Local Authorities to Care Boards. Ultimately, we want what is best for the people of the Scottish Borders, and we do not believe that the development of Care Boards in the way outlined is best for our population. We do not envisage that Care Boards in their proposed format will achieve the aims stated, and believe that this will be damaging to the functioning of other local authority services, Health services and most importantly to our service users.

There is a lack of attention in the Bill paid to the governance and accountability for the professional Social Work role and function. The fragmentation / separation of professional Social Work alignment comes with added risk and will leave different parts of the profession accountable to different bodies.

We support investment into Social Care and Social Work but do not agree with investment into the additional administrative infrastructure for Care Boards. We

believe that a far more optimal approach would be to build upon current Health and Social Care integration arrangements.

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

Arrangements for the development of Ministerial oversight of Integration Joint Boards, but with continued representation and decision-making from our communities, Health and Social Care / Work professionals, Local Elected Members and Health Board members. In addition, explicit provisions encouraging local communities to further develop their local Integration Joint Boards, with real engagement of those communities 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 coterminous Integration Joint Boards, Local Authorities and Health Boards.

This approach would provide a real opportunity to unify our approach in a consistent way with a single expanded and coterminous integration authority and support improvements in local outcomes within this context.

**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.

We have a concern over the sweeping powers proposed by the draft primary legislation without a clear expression of what is actually being proposed, and the further ability to make further radical but as yet unspecified change to the Health and Social care system. Through secondary legislation.

It is important to recognise the impacts that this uncertainty has on staff and partners working across Social Care, Social Work and Health, in addition to in the wider Local Authority and Health Board structures, and so further clarity is essential.

Among the issues which need to be addressed are the following:

- Clarity regarding the intended employment status of local government Social Work and Social Care employees
- Clarity on proposals for commissioned Social Care staff and how parity with NCS staff will be maintained.
- Detail on how the range of support services currently provided by local authorities (including facilities services, procurement, project management, emergency planning, civil contingencies, fleet, ICT, HR, payroll etc.) will be addressed, and how the gap in local authority funding will be met if these services are not provided by councils in future.

- Detail on the use of local authority assets currently employed in the delivery of Social Care, whether buildings, fleet vehicles, ICT or other equipment and those assets which are planned or currently under construction e.g. the Scottish Borders plans for two new 60 bed care villages.

The Council understands that, with such a big complex change as is envisaged in the Bill, not rushing to include all the detail now may seem prudent, and this should assist in getting things right. However, that detail could have been worked up prior to presentation of the Bill, even if the Bill's publication was consequently delayed. The pressing timescales were determined by Scottish Government, and delay in publication would have made limited difference when it comes to working out the detail which will be essential to a functioning NCS.

Moreover, while the Scottish Parliament will be able to reject regulations (secondary legislation) made by Scottish Ministers, very extensive use of regulations will be required given that the Bill is fundamentally 'framework legislation'. This might be regarded as a sub-optimal approach to parliamentary scrutiny.

**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?**

This depends on the approach taken by the National Care Service.

Should statutory guidance, the development of Ministerial oversight of Integration Joint Boards under their current form, or use of the 'Education model' be adopted; then the core delegated services listed in the Public Bodies Act should continue to be part of this, with the option for local areas to determine whether to delegate further services.

While we consider that the proposed Care Board model deflects from the substantial improvements that could be achieved within existing structures, we would be willing to undertake a local pilot of an alternative model to demonstrate their improved effectiveness and better value for money for the population of the Scottish Borders, in lines with the purpose of the Bill.

**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.

The administrative costs of the National Care Service and Care Boards are very high and lead to less financial resource for service delivery. We do not believe these represent value for money, and lead to an overall reduction in financial sustainability.

**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?**

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 Primary Care, Community Health, Social Care and Social Work services.

**9. 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?**

The Scottish Borders Council commented as part of the previous National Care Service consultation, and as part of the Joint COSLA response.

Some comments were made on financial assumptions at that point. Not all points made below were relevant to the initial consultation.

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

It is unclear as to whether this has been the case.

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

Timescales have been very tight. However, we have been able to secure approval of this by Scottish Borders Council response in 'full Council'.

- **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.**

We do not believe that they have been accurately reflected. The Bill outlines the transfer of functions, workforce, revenue and capital resource from Local Authorities to Care Boards. At this stage, there remains much uncertainty over the operational model and the financial mechanisms that will be implemented to support commissioning by the newly established Care Boards.

The direct service costs attributable to delivery of existing service models are assumed to be fully transferrable and there is no recognition within the cost estimates of the nature of fixed, semi-fixed or variable costs.

There are a number of other concerns regarding the financial assumptions made which are outlined 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. For Local Authorities, the Financial Memorandum notes this limitation and indicates that these "costs and savings will depend on what services are to be included in the NCS, when the transfer is to take place and how the transition process will be staged. The Scottish Government will carry out thorough options appraisal, working with COSLA, to identify these financial implications at the appropriate time and inform the approach taken. Further information will be provided to the Scottish Parliament when the relevant secondary legislation is brought forward."

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 transition from Local Authorities to 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

Using 3% as an overall inflation figure will 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.

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

Where any savings are outlined, it is not clear how these have been calculated and whether they are expected to be cash-releasing or are reported as economic benefits.

- **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?**

We do not believe that the Scottish Borders Council can meet any financial costs that it might incur as a result of the Bill.

There are three broad areas where additional costs might be anticipated. Firstly, for the provision of new or expanded services; secondly, for the

creation of the administrative body of the Care Board(s); and thirdly, the costs of transition.

It is assumed that new or expanded services will be clearly funded as such and therefore there will be no additional impact on existing organisations.

In relation to the estimated costs of administration for new care boards, the Financial Memorandum estimates that £25-40m of costs will be released from within existing organisations (local authority, NHS or Integration Joint Boards). Based on the Scottish Borders IJB, and assuming a population based share, no more than 20% of the release would be expected to come from within the existing IJB leadership team, with the balance to be released by disaggregation of costs from within Scottish Borders Council or NHS Borders. For small regions, this will create diseconomies of scale and may destabilise existing organisations.

Transitional costs will require additional financial support where there is double running to establish new functions. Particular areas of cost uncertainty remain in relation to IM&T, premises. In addition, the financial impact of TUPE transfer for existing employees and the impact on Pensions remains uncertain. Finally, the uncertainty over VAT treatment of commissioned services from a separate Care Board presents a potential risk to the overall value delivered from existing resources should reclaim of VAT on services no longer be available .

- **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?**

The Financial Memorandum does note that there is uncertainty with the Local Authority costs presented, and recognises the need to work through this in partnership with COSLA, and as secondary legislation is created.

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

- 10. 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?**

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.

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

### **1. 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 can the Bill put the person at the heart of the Bill?

### **2. 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 commissions 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 the balancing impacts of the development of Care Boards on the wider Local Authority and Health ecosystem are considered carefully in order to not destabilise this important system for our public service users.
- 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 body, with real engagement of that community and the ability to plan and deliver care across the system.

### **3. 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 and Social Care system. This would appear to be a backwards step and risk leaving whole system Health and Social Care planning split between multiple bodies.
- That there are significant unintended impacts on the functioning of services and organisations outwith the services in scope of the National Care Service Bill that will lead to poorer public experience, performance and outcomes.
- That the Bill is overly focused 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 user 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)