

National Care Service Bill

Stage 2: Issues for local government

Introduction

The National Care Service Bill is now at Stage 2 of its progress through parliament. The Bill as introduced to parliament endangered local government and the direct delivery of public services by local authorities (as outlined in this UNISON briefing). Although the Government has now abandoned some of the more immediate threats, the revised plans still undermine local government and attack the public delivery of public services. All social work services, social care support and community health services delegated to NCS local boards will be referred to as 'NCS services' regardless of whether they are delivered directly by councils, third sector or private providers.

This briefing sets out the main issues and problems with the revised Bill

The revised plans

The original plans contained in the National Care Service (Scotland) Bill met widespread opposition (see UNISON briefing 139). To get the Bill through its first parliamentary vote the Government promised significant changes. In June 2024 the Scottish Government published some of the amendments to the Bill that will put the changes into effect.

It is now proposed to reform of the existing Integration Joint Boards (IJBs) and create (in 2025/26) a National Care Service Board (NCSB) to whom IJBs would be accountable. IJBs would be re-branded as 'National Care Service local boards'. The services delivered by councils, health boards and other providers would be re-branded as 'NCS services'.

After the original version of the Bill was roundly criticised, the Scottish Government paused the legislation in summer 2023 to negotiate with COSLA and trade unions. As a result of these negotiations, it has been agreed that:

- Statutory duties for social work services and social care support will now remain with local authorities and there will be no transfer of local government staff or assets. (Previously the security of employment & pensions for up to 75,000 local government staff were at risk along with the future of direct public provision by local authorities).
- Legal accountability for people's care within the NCS will be shared at a national level between Local Government, Scottish Government and the NHS. A 'shared accountability' agreement on the NCS was announced on 12 July 2023. However how legal accountability will be shared between the different tiers of government & the NHS, and what this will mean in practice, is still not properly explained, beyond all three parties being represented on the NCS Board.

KEY POINTS:

- **Changes have been made to the Bill but it is still an attack on local government and publicly delivered services.**
- **The National Care Service will not deliver services directly – it will only contract from others**
- **The intention is that all of social work and social care services are rebranded as 'NCS services – even if delivered by councils.**
- **IJB's will be reformed into 'local care boards. They will be empowered to exclude councils from bidding for contracts.**

Revised Plans(Cont)

Centralisation and public service reform is still the main agenda and there remain threats to direct public service delivery and to local democratic accountability of services. Despite many months of negotiations with the Scottish Government, it is notable that COSLA remains unhappy with the plans (see Feb 2024 COSLA statement).

Importantly, no agreement has yet been reached on some critical issues for local government. As a result the Scottish Government has failed to provide a full set of its Stage 2 amendments. MSPs are still being asked to support a bill without full knowledge of what a NCS will look like because so much of the detail is being left for the Government to decide after the Bill has been passed.

Critical issues for local government

The stated preference is for all social services to be removed from direct local authority control. Responsibility for the planning, delivery and budgetary decisions of all social work and social care services including children's and justice social work would transfer out of local authorities to IJBs/NCS local boards; even though councils would retain statutory duties to provide or arrange for the provision of social services.

The loss of direct control over all children's social services and Justice social work would have considerable implications. There are currently 10 areas where neither children's health or social care services are delegated to the IJB and another 9 areas where they are only partially delegated i.e. only children's health or only children's social care services.

The approach the legislation will take to this is still being worked out pending completion of a review of Justice social work and further discussions about children's services. But the bill will enable this, and it represents a significant loss of local autonomy and decision-making for local government.

The revised Bill's Policy Memorandum admits that the full implications of this for local government have not yet been assessed: "It is not possible to fully quantify these impacts until decisions are taken on what services are to be included in the NCS. The Scottish Government will work with COSLA and SOLACE to identify the implications at the appropriate time, and further impact assessment information will be developed alongside the relevant secondary legislation." (Para 317, p278).

Direct funding of IJBs/NCS local boards

The original NCS plan involved the removal from local authorities of Government funding related to their statutory duties for social work and care services. Instead, local Care Boards directly funded by Scottish Government would exercise these duties on behalf of Ministers.

In the revised NCS, IJBs/NCS local boards would continue to receive their funding from the local authority and the health board ('delegated budgets'). The Scottish Government is very clear that this is not its preference, and that it still wants the power to directly fund IJBs/NCS local boards. The Government now says that direct funding would be confined to specific agreed purposes, such as regional & national commissioning of specialist services.

Direct funding proposals are contentious and would enable further ring-fencing of funding for Scottish Government/NCS Board priorities. Should the Bill enable direct funding, the details of the specific circumstances in which it is permitted would only be set out in regulations after it has been passed *with the potential for these to be extended in the future*.

The Government has been unable to reach agreement with COSLA about this; it has also been unable to produce any amendments to the Bill outlining what they intend.

End of Local Accountability

Currently IJBs are jointly accountable to the local authority and health board as well as to Ministers. Many local authorities have scrutiny committees for their delegated services.

In the NCS the local lines of accountability would end. There would be only upwards accountability to the NCS Board.

The 'shared accountability' agreement between COSLA and Scottish Government is intended to compensate for this. The proposal is that nominees from local government will sit on the national NCS Board, alongside NHS nominees and representatives of Ministers. It appears that this is the main mechanism for achieving 'shared accountability' for NCS services between local government, Scottish Government and the NHS.

It is important to be aware that any councillors on the National Care Service board would be there as appointees, not as representatives accountable to their local authorities (they would be nominated by COSLA and appointed by Ministers). It is also important to note that the voting membership of the NCS Board will be wider than this and will include, as a minimum, voting representatives of people with lived experience of receiving care, being unpaid.

The proposals to extend voting rights on IJBs/NCS local boards and to have 'Independent' Chairs appointed by Ministers have implications for local democratic accountability

Single Model and Single Scheme of Delegation

The IJB model of integration will be mandatory within the NCS. In Highland this will mean a period of transition away from the lead agency model, following many years of transition for the workforce to achieve it. Argyll and Bute will be affected by the single scheme of delegation, as the only area that currently has acute health services included.

Conclusion

UNISON continues to oppose the NCS bill. It does not deliver the type of National Care Service that is needed. Our concerns include that the Scottish Government:

- It believes that who provides a service - whether private sector, third sector or public sector makes no difference. It has a bias against direct public sector delivery and sees the role of the public sector solely as that of fostering a buoyant market and being a provider of last resort when contractors fail. The bill keeps private profit in care and includes provisions to expand the third sector 'share of the market'.
- continues to pursue centralised control. From its perspective local authorities are a barrier to achieving consistent care provision across the country.
- It is committed to maintaining a market in social care and extending this to wider social work services.

When Integration Authorities were first established with the IJBs as the main model, one of UNISON's main concerns was that removing responsibility for services from local authorities would result in less direct public provision and the privatisation of NHS services. This is what has happened in practice over the past 8 years. The financial straitjacket of austerity has driven the trend towards outsourcing. If passed this Bill will reinforce, not buck, this trend.

Additional reading

- [NCS Bill Stage 2 Amendments \(June 2024\)](#)
- [UNISON Briefing - Local Govt and the NCS Bill \(2022\)](#)
- [UNISON update on NCS bill \(Oct 2023\)](#)
- [NCS revised govt plans \(Jan 2024\)](#)
- [Our vision for a National Care Service](#)



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