

LOCAL GOVERNMENT AND THE NATIONAL CARE SERVICE

Introduction

The [National Care Service Bill](#) was introduced to Parliament on 21 June and a public [Call for Views](#) is open until 2 September. The Bill provides the legal framework for the National Care Service with most of the detail still to be developed and set out in Regulations. The aim is for a National Care Service to be in place by 2025/26.

This briefing looks at what the proposals mean for local government. Previous briefings gave [a general overview of the NCS](#) and looked at the implications for [Social Work](#).

Key points

- **This spells the end of ‘in-house’ local authority run and provided social care and social work services.**
- **Up to 75,000 council staff are at risk of TUPE transfer.**
- **Councils may become providers in a market for social care and social work services.**
- **It means the end of publicly run and delivered democratically accountable social services for local communities.** The future of publicly provided social work and care is at risk along with the security of jobs and pensions.
- **The existence of councils as a tier of government is under threat** if this attempt to remove local democratic control over social services succeeds.
- **These changes will weaken accountability to the people who use services** along with their carers and families.

Overview

Local authorities will lose their statutory duties and responsibilities for social work and social care, duties they have held since social work became a statutory public service [over 50 years ago](#). These duties will transfer to Scottish Ministers but will sit with quangos called Care Boards, who will also hold the funding.

The loss of local democratic control will further weaken the potential for insourcing of social care services including as part of council’s Community Wealth Building strategies. The concept of ‘insourcing’ will become meaningless.

The bill is a ‘smash and grab’ on local government: it enables Ministers to transfer any local government property assets associated with social work and care delivery and make compulsory land purchases.

The Bill enables two alternative futures for local government:

- (1) Councils become contractors:** continuing to employ staff to provide social services but under procurement arrangements with Care Boards.¹ Huge uncertainty is attached to this: these are described as “decisions to be taken locally as the care boards are established, following careful options appraisals.”² However it is clear these local decisions will be made under the direction of, and within a framework & crucially a financial context set by Scottish Ministers.

- (2) Care Boards take over direct delivery** of social work and social care services from councils. Up to 75,000 council staff may transfer under TUPE to the care board, where they will continue providing services but under the direction of Scottish Ministers. Any assets e.g. council-owned care homes will transfer to the ownership of the NCS.

In contemplating the future, a cause for concern is the government’s view that *who* provides social work and social care services (‘social services’) **makes no difference** in terms of the quality of services provided to citizens. This is in clear conflict with the evidence.³⁴ According to this view it doesn’t matter whether services are provided by councils, the private or the voluntary sector. This is the government’s justification for enabling profit from care to remain in the NCS. The Bill also enables social work and social care contracts to be reserved for not-for-profit organisations principally the third sector.

Local Government Workforce: the breaking up of the council workforce and the removal of such a significant proportion of staff could undermine the viability of other council functions such as finance. It creates uncertainty and insecurity, as well as risks for social care and social workers’ conditions of employment. The pension rights of workers transferred to Care Boards are at risk as TUPE does not guarantee the maintenance of existing pension arrangements. The specific impact on social work staff is outlined [here](#).

Service Integration: The expressed aim of this reform is to improve the quality and consistency of the social care and social work services that people in communities receive. Above all it is about improving people’s experience of care in which the integration and responsiveness of services is key.⁵ The NCS falls short of this. The overall effect of the Bill will be to undermine the integration of local services and the strategic approach taken at local level between social work, social care and other essential community services like early education and childcare, schools, housing and homelessness prevention and employability. Included in the NCS will be adult services, adult protection, social work and care for adults with mental health needs and alcohol & drug services.

¹ Once their statutory duties are removed, local authorities will have no reason to employ any social care or social work staff or provide these services. The Bill has had to address this by introducing a clear legal basis for them to continue doing so.

² [National Care Service Bill Financial Memorandum](#).p.7

³ [Scotland’s Social Care Rip Off](#)

⁴ [Held to Ransom: What Happens When Investment Firms Take Over UK Care Homes](#)

⁵ [Commission on the Future Delivery of Public Services](#).

Further public consultations will take place to determine whether children's social services and/or justice social work services will be removed from councils.

Improving services: the government claims that oversight by Scottish Ministers and a more actively managed market (via ethical commissioning) are the key to improving the consistency and quality of services. However we cannot separate this from the question of resources. Local authorities suffered a real terms cut in Scottish Government funding of 7% between 2013/14 - 2017/18⁶, and a [4.2% real terms cut](#) over the past 7 years, disproportionately higher than other areas.

Councils face a further 7% real terms cut for the period to 2025/26 as announced in the [2022 Spending Review](#). Audit Scotland identifies this as the key reason for the focus on cost rather than quality within social care commissioning.⁷⁸ It has also identified a very significant shortfall in spending on social work.⁹ This explains the rationing of social work and social care resources through tighter criteria and higher thresholds leaving thousands without the support they need.¹⁰¹¹

Despite this, support for unpaid carers is the only area of unmet need directly addressed by the Bill. There is no guarantee that this structural reform will deliver its stated aims. Indeed the financial memorandum makes explicit that the creation of a National Care Service (a new delivery structure) will not guarantee these things, because: "...these are policy decisions to be made or sustained under the new framework, not necessary consequences of the Bill provision."¹²

Accountability to service users: local democratic control of social services provides a mechanism for direct accountability to service users in local communities. This will not exist in the National Care Service. Instead of their local councillor people will have a complaints system, as they do with their energy provider.

Conclusion

The government appears intent on reducing the powers and resources of local government and eliminating councils as a tier of democracy. Removing councils' statutory duties for social work and social care will cut across the close integration that is needed between these and other local authority community services. UNISON is clear that the National Care Service must take profit from care, not services out of councils.

For further information please contact

Susan Galloway s.galloway@unison.co.uk

Stephen Low S.low2@unison.co.uk

Bargaining & Campaigns Team

⁶ <https://spice-spotlight.scot/2018/06/08/local-government-funding-the-story-behind-the-figures/>

⁷ https://www.audit-scotland.gov.uk/uploads/docs/report/2022/briefing_220127_social_care.pdf p.11

⁸ https://www.audit-scotland.gov.uk/uploads/docs/report/2016/nr_160922_social_work_0.pdf

⁹ <https://www.audit-scotland.gov.uk/publications/social-work-in-scotland>

¹⁰ [Keeping the Promise](#)

¹¹ [Setting the Bar](#)

¹² [National Care Service Bill Financial Memorandum](#).p.4