

Agenda Item	15
Report No	HC/24/21

HIGHLAND COUNCIL

Committee: The Highland Council

Date: 9 September 2021

Report Title: National Care Service for Scotland Consultation

Report By: Executive Chief Officer – Health & Social Care

1. Purpose/Executive Summary

- 1.1 This report to Council has been produced to draw Members' attention to a major Scottish Government consultation, issued on the 9th August entitled "A National Care Service for Scotland".

It was widely accepted that the publication on 3 February 2021 of the Independent Review of Adult Social Care in Scotland (referred to as "The Feeley Report") would have a significant impact upon the delivery of adult social care in Scotland and potentially also upon the current partnership arrangements with NHS Highland.

The consultation now published goes significantly beyond the delivery of adult social care and extends to the delivery of other social work and social care services including children's services, justice services and the work of alcohol and drugs partnerships. Other health functions are also included in the consultation.

The consultation is likely to have a significant impact on existing social work practice and staffing generally. It could lead to a change of employer of up to approximately 900 staff. The professional responsibilities of those staff who are currently supervised by or on behalf of the Chief Social Work Officer may also be affected

The Health Social Care and Wellbeing Committee were made aware of the consultation at their meeting on 11 August.

2. Recommendations

Members are asked to consider the terms of the consultation and :

1. Discuss the proposals set out in the consultation and endorse the approach set out within section 5 of this report
2. Note the need to engage with staff, trade unions and Members and with key partners including NHS Highland and other third party stakeholders in terms of informing a response to this consultation

3. Agree that the Chief Social Work Officer provides a professional response to the questions highlighting possible impacts to service delivery and Council performance which is then considered as part of the process set out in recommendation 1 above
4. Note the request through COSLA to the Scottish Government for an extension to the deadline for responses
5. Agree the draft response to come to Council in October – either to the scheduled meeting on 28 October, or a special meeting on 14th October if an extension isn't secured
6. Agree that there be continuing engagement with COSLA in terms of the impact the consultation may have on local authority functions going forward

3. Implications

- 3.1 Resource – There is little detail within the consultation document about the resourcing implications of the proposed changes. There are likely to be considerable budget implications which will become apparent once the proposals are clarified.
- 3.2 Legal – These proposals, if pursued, will require significant revisions and changes to existing legislation and are likely to lead to change in the partnership arrangements currently in place with NHS Highland.
- 3.3 Risk/Impact – The proposals as envisaged by the consultation will, if enacted, lead to significant change in how care services are delivered and as such are likely to have a significant impact on our communities. It is only once that full consideration of the consultation has been completed that those implications will become clearer.
- 3.4 Community (Equality, Poverty & Rural) - Equality, fairness and access to services by all is key to the Highland's future prosperity. This consultation will have an impact on all those issues and it is only once that full consideration of the consultation has been completed that those implications will become clearer.
- 3.5 Gaelic, Climate Change – It is not considered that there are likely to be any direct climate change or Gaelic implications.

4. Background

- 4.1 On 1 September 2020 the First Minister announced that there would be an Independent Review of Adult Social Care in Scotland as part of the Programme for Government. The Review was chaired by Derek Feeley, a former Scottish Government Director General for Health and Social Care and Chief Executive of NHS Scotland. Mr Feeley was supported by an Advisory Panel of Scottish and international experts and published the report after carrying out consultation with stakeholders.
- 4.2 The Scottish Government stated that “the principal aim of the review was to recommend improvements to adult social care in Scotland, primarily in terms of the outcomes achieved by and with people who use services, their carers and families, and the experience of people who work in adult social care” The review took a human-rights based approach and indicated a change of direction in terms of future delivery of adult social care.
- 4.3 The Independent Review concluded at the end of January 2021 and its report was published on 3 February 2021, generating widespread support for the ethos and values expressed albeit there was some concern about how the proposed national care service

would operate. A consultation on the detailed review's proposals had been anticipated since then but what has come forward is much broader than previously signalled and includes the impact such proposals would have upon children's services, justice services, healthcare, social work and social care, nursing, prisons, alcohol and drug services, and mental health services. The core delivery of social work and health professional services will change as a result of the proposals envisaged by the consultation.

- 4.4 There had been no indication to councils directly, or through COSLA, that the Scottish Government was intending to broaden the review of adult care services in this way. COSLA issued a critical press statement on 9 August in response to the publication of the consultation and this is attached at Appendix 1.
- 4.5 The deadline date for consultation responses is 18 October 2021. The meeting of the Health Social Care and Wellbeing Committee agreed that an approach be made to COSLA to seek an extension on behalf of all Scottish local authorities to the Scottish Government's deadline of 18 October 2021. This would make it possible to take the draft response to the scheduled meeting of the Council on October 28. If an extension is not secured, it will be necessary to agree a date for a Special Council meeting to approve the response, and the date of 14 October is proposed.

5. Approach agreed by Health Social Care and Wellbeing Committee

- 5.1 The Scottish Government has published a series of virtual engagement events, from Monday 16 August to 4 October which cover the following strands:
- All aspects of the Consultation
 - Improving care for people
 - Community Health and Social Care Boards
 - Scope of National Care Service
 - Commissioning of Services
 - Regulation
 - Fair work and valuing the workforce

At the time of writing, one introductory consultation event has taken place. It was made apparent at that introductory event that it is the intention of the Scottish Government to proceed with the proposed changes at pace. A further 8 events will take place from 2 September to 4 October and there will be officer representation at each of these events. These sessions are open to all stakeholders – service users, elected members, public bodies and members of the public (link: <https://consult.gov.scot/health-and-social-care/a-national-care-service-for-scotland/>) and that link has been provided to all members and staff.

- 5.2 Given the significant potential impact of the proposals, it was agreed by the Health Social Care and Wellbeing Committee that the consultation be remitted to full Council for consideration. The consultation has been disseminated to all members and third sector stakeholders of the Joint Monitoring Committee which is the governance vehicle for the partnership arrangement with NHS Highland. The consultation has also been provided to all staff, although the impact is considered to be greatest for those staff employed within the Health and Social Care Service. It is important to note that those staff employed within the Commissioned Child Health section of the Service are also likely to be affected. The Unions have also been informed. There requires to be an extensive engagement approach with staff to inform the response to the consultation. Further work requires to take place to consider the potential impact on Council services; on the

partnership in place with NHS Highland; on the social work profession, on service users and on local democracy.

5.3 It is of note that the consultation appears to be based on the assumption that a National Care Service is established and that such a service will deliver anticipated improvements in terms of the delivery of social care services across Scotland. However there are major issues which remain to be explored:-

- The extent of that National Care Service - The scope has now expanded significantly beyond the delivery of adult care services to include children and justice services. The inclusion of children's services means that the interface with education services (delivered by local authorities) would require to be addressed.
- How it is proposed that the National Care Service and the anticipated local governance mechanism be resourced
- The centralisation of key functions and loss of local democratically elected checks and balances and how these would be delivered within the envisaged National Care Service
- One approach for all areas whether urban or rural and how that would be delivered in practice.

These concerns could form a key part of the Council's response together with the outcome of the staff engagement referred to at paragraph 5.4 below.

5.4 The impact on staff cannot be underestimated and the proposed staff engagement needs to take place at pace given the timescale set. Were the National Care Service to be set up on the basis of the consultation then there would be TUPE considerations for a significant number of staff whose employment status would potentially change to employment by what are understood to be Community Health and Social Care Boards accountable to the proposed National Care Service.

5.5 It is proposed that there be a number of virtual events where views of staff will be sought so that those can views can form part of the consultation response. Senior managers within the Health and Social Care Service have been asked to liaise with their staff and hold briefings and meetings to inform the response to the consultation. The Chief Social Work Officer will provide a professional assessment of the proposals, and questions, to inform the response that will come to Council in October.

5.6 It is also proposed that there is an opportunity for Members to feedback on the consultation to help inform the Council response and a virtual workshop date will be issued as soon as possible should Members approve this approach. Members are also able to respond to the consultation separately on an individual or group basis.

Designation: Executive Chief Officer – Health & Social Care

Date: 20 August 2021

Author: Fiona Duncan, Executive Chief Officer – Health & Social Care

Background Papers:

- National Care Service for Scotland Consultation <https://consult.gov.scot/health-and-social-care/a-national-care-service-for-scotland/>
- Appendix 1 - COSLA response

COSLA STATEMENT 9 AUGUST 2021

The Consultation on the National Care Service which was launched today cuts straight through the heart of the way Scotland is governed COSLA President Councillor Alison Evison said today (Monday).

“The Consultation launched today cuts through the heart of governance in Scotland – not only does it have serious implications for Local Government – it is an attack on localism and on the rights of local people to make decisions democratically for their Place. It once again brings a centralising approach to how decisions which should be taken locally are made.

“We welcomed large parts of the Independent Review of Adult Social Care and have been keen to get on and deliver, however the vision this consultation sets out goes beyond the Feeley Report. It isn’t evidence based and will take years to deliver – years when we should be making improvements which will benefit all users of social care services.

“Councils know their communities and all the evidence suggests that local democratic decision making works. Councils have shown time and time again during the last 18 months of the pandemic that we can deliver for the communities we serve when we are trusted and resourced to do so.

“It is deeply concerning that the consultation is also a considerable departure from the recommendations of the independent review set up to look at Adult Social Care.

“The lack of prior engagement with Local Government is not new – the partnership between the Scottish Government and Local Government which we have been seeking to build, continues to elude us in practice and it is the communities we serve who are losing out.

“Let’s be clear - this is not a “thinly veiled” attack on Local Government – there is no subtlety to it and, sadly for local communities, the ‘onion peel’ of Local Government services by this Government shows no sign of letting up.

“On behalf of the communities we serve, COSLA and Local Government will engage constructively with the Consultation process. People may be surprised by the extent of services covered by this Consultation and I would urge as many as possible to respond to it, as this could really be the end for anything other than central control in Scotland.

“We all want better services for our communities, nobody more so than Local Government and that is what Local and National Government should be working on collectively for our communities.”

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