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| Agenda Item | 9 |
| Report No | JMC/17/24 |

The Highland Council/ NHS Highland

Committee: Joint Monitoring Committee

Date: 25 September 2024

Report Title: National Care Service Update

Report By: Executive Chief Officer Health and Social Care, Highland Council and Chief Officer NHS Highland

1. Purpose/Executive Summary

1.1 This report provides Committee with an update on the National Care Service Bill. This report provides some detail in relation, in particular, to the future model of integration for the new National Care Service Local Boards which will result in the removal of the Lead Agency Model in favour of a unified approach to integration across Scotland. It is of note that the IJB model will also cease albeit it is expected that the anticipated change may have less impact in those other integration authorities where that model is in place.

1.2 On 24th June 2024, the Minister for Social Care, Mental Wellbeing and Sport wrote to the Health, Social Care and Sport Committee with an update on the next stages of the National Care Service (Scotland) Bill. The letter provided further information on the Bill, which is currently at Stage 2 of its journey through the Scottish Parliament.

As well as the letter, the Minister sent draft Stage 2 amendments and other related documents as an update for Stage 2 of the Bill. Those amendments were based on feedback from the Committee earlier this year in its Stage 1 report. Full details in relation to those documents which provide significant levels of detail can be found in this link - [the Scottish Parliament website](#). There is a consultation in relation to those Stage 2 amendments and details in that respect are included within this Report. The consultation was first intended to close on 30 August 2024 but that time scale has now been extended until 20 September 2024. As such both the Council and NHS Highland have provided a response. It ought, however, be recognised that there will still be opportunities to engage further beyond that date. It ought also be noted that CoSLA and other relevant national bodies including Social Work Scotland are also engaging with the Scottish Government in terms of the implementation plan.

1.3 The Council and NHS Highland have worked through the proposed changes with the Scottish Government to ensure Highland is able to maximise the benefits promised by such a major piece of Health and Social care reform. Officers have sought to ensure

that the response to the consultation takes into account the unique lead agency position currently in place in Highland.

2. Recommendations

2.1 Members are asked to note:

- i) The position in relation to the legislation seeking to implement the National Care Service which will result in the introduction of a single model of integration and the consequent removal of the Lead Agency Model; and
- ii) That further updates providing clarity on the legal, financial and governance implications will come forward to future meetings of the Council and this Committee as appropriate.

3. Implications

3.1 Resource – whilst there are no specific risks directly arising as a direct consequence of this report, a change to the model of integration is likely to have significant financial implications that are not yet clear. There may also be changes to employment terms and conditions as a result of changes to the integration governance model. Clarity on the scheme that is to be operated across all 32 local authorities will be required so that any implications in relation to the staffing model in place can be considered.

3.2 Legal – Stage 1 of the Bill was completed on 29 February 2024. Stage 2 is now in process and will be debated in Parliament. The time limit for consultation in relation to this Stage ended on 20 September 2024. The timeline for the Bill to complete all Parliamentary stages and for the legislation to be enacted is not yet known, but is anticipated that the new legislation will not come into force for at least another 18- 24 months, providing time for the legal and other implications to be worked through and reported back to Council.

3.3 Risk – there are a range of potential risks arising from the new arrangements as is the case with any major change of this nature. It is known that there may be implications involving the employment status of staff currently working across the Council and NHS Highland with related cost/financial issues and clearly there will be governance and assurance implications for the partnership as well as possible impacts on service delivery. It is still too early to provide a more detailed assessment but it is useful that greater clarity is emerging as to the integration model that is to be rolled out across Scotland. A technical assessment of the key differences between the Lead Agency Model and Integrated Joint Board has been initiated to assist with this analysis, albeit the proposed legislation provides that all integration authorities will operate under a Local Care Model arrangement so that there will be changes too for those areas operating as an IJB.

3.4 Health and Safety (risks arising from changes to plant, equipment, process, or people) – There are no such implications arising from the consequences of this report.

3.5 Gaelic – There are no such implications arising from the consequences of this report.

4. Impacts

- 4.1 In Highland, all policies, strategies or service changes are subject to an integrated screening for impact for Equalities, Poverty and Human Rights, Children's Rights and Wellbeing, Climate Change, Islands and Mainland Rural Communities, and Data Protection. Where identified as required, a full impact assessment will be undertaken.
- 4.2 Considering impacts is a core part of the decision-making process and needs to inform the decision-making process. When taking any decision, Members must give due regard to the findings of any assessment.
- 4.3 This is an update report and therefore an impact assessment is not required.

5. Background

- 5.1 The [National Care Service \(Scotland\) Bill \(NCS\)](#) was published in June 2022 with the intention of reforming how social care, social work and community health services are delivered in Scotland. The proposal to create a National Care Service was based on recommendations made by the [Independent Review of Adult Social Care](#), led by Derek Feeley.
- 5.2 Under the shared accountability agreement, local authorities and health boards will remain legally responsible for delivery functions, staff and assets within the NCS. These elements have been subject to widespread consultation including significant engagement with COSLA where agreement on the extent of the services to be overseen by the NCS has yet to be reached, especially in relation to children's services and justice social work. Some further detail in relation to this has now been provided in terms of the publication of Stage 2 of the proposed Bill.
- 5.3 There are elements of particular interest to Highland. Key is the model of integration envisaged by the new NCS and whether this would still support the Lead Agency Model and what implications that would have for service delivery and staff.
- 5.4 There has been extensive negotiation between COSLA and the Scottish Government in relation to the NCS Bill as a whole. Other areas of interest include the inclusion, or otherwise, of children's and justice social work services within the remit of the proposed NCS and the funding for integration authorities. Those areas and others form part of the matters which are now subject to consultation.

6. Stage 2 - Proposed Amendments and Consultation

- 6.1 The consultation which has been issued by the Scottish Government relates to the bill in its entirety. The provisions do of course have an impact on service delivery across Scotland and whilst this report will detail the elements which are being consulted upon there will be an emphasis on those parts which have particular impact in Highland. Members will be aware that prior to the publication of these proposed amendments that the Scottish Government had engaged with The Council and NHS Highland at official level to provide information on the amendments that will be coming forward as they relate to the model of integration that will apply to the NCS local boards. This has made clear that the legislation will specifically preclude the Lead Agency Model in favour of a single model of integration for the whole of Scotland. This will be largely based on the IJB form of integration such that it is envisaged that Local Care Boards will be established which are accountable to the National Care Board. Those local boards will be separate legal bodies and as such will operate in a manner that is

different to the current model where governance is provided through the Joint Monitoring Committee.

6.2 In terms of the consultation views were sought in relation to 8 particular areas. Put short a response was sought in terms of seeking support – or otherwise – for various elements of the bill across a spectrum from strongly support at one end to strongly oppose at the other. There was then an opportunity to offer comment on those particular areas. The 8 areas where views were sought are as follows:-

1. The National Care Service Strategy
2. The National Care Service Board
3. The creation of local boards and the removal of other integration models
4. Monitoring and improvement and commissioning
5. Designation of a National Chief Social Work Adviser and establishment of a National Social Work Agency
6. Amendments to the Public Bodies (Joint Working)(Scotland) Act 2014
7. Areas of further work – Childrens/Justice/Rights for Carers
8. Design of a National Care Service Charter

In terms of those particular areas, it is clear that many will have an impact across Scotland and CoSLA and Social Work Scotland will continue to have significant involvement.

6.3 Highland is however, in a unique position in relation to the impact of those items at 3 and 6 above which have an impact on the model in place. A response will be issued recognising that impact and the ongoing requirement for further detail. Whilst it is clear that governance arrangements for the Health & Social Care Partnership will be through a Local Care Board it is not clear how that will operate given the staffing arrangements in place and this requires to be clarified. This Committee will be kept apprised in that respect. The Council and NHS Highland will work closely with the Scottish Government to assess what assistance may be required to deliver such a significant transition to the new model to ensure that the benefits envisaged by the NCS can be fully realised in Highland. As the local authority that will experience the most change by the introduction of the NCS, there may be value in Highland being a Pathfinder authority and the potential for this will also be explored in the coming weeks and months.

6.4 There is also significant interest in the potential inclusion of children's and justice services. It had not been anticipated that children's and justice services would be part of the proposed National Care Service and that had been a view supported by Cosla and represents the view taken when the National Care Service was first consulted upon. It does however seem clear that the inclusion of those services remains the aspiration of the Scottish Government albeit at this point the Bill as drafted provides for their inclusion only where already part of current integration arrangements. In Highland that is the case in terms of Child Health staff but not Justice staff.

6.5 At the time of writing this report the response to the Stage 2 consultation by both the Council and NHS Highland is not available. It is intended however that it will be circulated to the members of this Committee once available. It must however be emphasised that there is still significant work required in terms of the enactment of this legislation and officers will continue to engage with CoSLA and the Scottish Government as appropriate and further reports will keep Members updated in terms of progress.

Designation: Executive Chief Officer Health and Social Care – Highland Council
and Chief Officer – NHS Highland

Date: 20 August 2024

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