



Royal College
of Nursing
Scotland

**Member briefing on the
National Care Service
(Scotland) Bill**

October 2024

Background

The National Care Service Bill has not had a straightforward journey through parliament. While the Bill passed its stage 1 debate in February 2024, MSPs and a range of organisations, including RCN Scotland, had raised serious concerns about the lack of detail in the Bill. In response, the Scottish government agreed to allow for more parliamentary scrutiny and shared further detail about its proposals in June.

We have submitted further written evidence on these proposals and on 24 September, RCN Scotland Director Colin Poolman, gave evidence to the parliament's Health, Social Care and Sport Committee for the second time on the Bill.

We are keen to ensure that our ongoing work on this clearly represents the voice of our members. If you have views on the proposals, and would like to inform RCN Scotland's continued response to the development of the NCS, please email policyscotland@rcn.org.uk

RCN Scotland position on the Bill

- We continue to share the Scottish government's desire to improve the quality and consistency of social care and community health services, and we agree that reform is needed. The sector is in crisis and there is a need for urgent action to tackle serious issues around workforce shortages and access to services in a sustainable way.
- However, we remain doubtful that the Bill will achieve this objective or address the serious challenges facing the sector. The success of social care reform is entirely dependent on having the right workforce in place and this must reflect increasing clinical need. Put simply, there needs to be more registered nurses within social care settings and appropriately staffed community nursing teams.
- As we have said since the start of this process, we are not for or against the creation of an NCS. Instead, we set out clear priorities for reform – including a workforce that reflects clinical need, safe staffing and parity of pay, terms and conditions with the NHS for nursing staff. We still do not believe that the Bill and the Scottish government's plans for the NCS will deliver against these priorities.
- We previously raised concerns that the Bill is being taken forward without a clear understanding of how to fix the current problems facing the sector. In our view this remains a real risk and we are concerned that the focus on the NCS will do nothing to address the current crisis in service capacity or tackle workforce shortages and recruitment and retention challenges.
- The recent damning report from the Accounts Commission showed that integration bodies are facing a financial crisis, and the Scottish government has not set out how it plans to address this. Investment is vital for improving access to services and tackling workforce challenges.

- Given that the Scottish government is committed to pressing ahead with plans for an NCS, we will continue to engage to ensure that nursing issues are central to reform and the development of new approaches to social care. This is vital for ensuring that those using services receive care that is high quality, safe and appropriate for their needs.
- But we are clear that individuals who require social care and community health services, and those who work in these sectors, cannot afford to wait until the creation of an NCS for the serious issues around workforce shortages and access to services to be addressed in a sustainable way.
- RCN Scotland has been engaged in the Scottish government's co-design work throughout however we remain concerned about the extent to which this is meaningful. We called for and welcomed the creation of an Expert Legislative Advisory Group, however, this fell far short of our expectations and failed to make any meaningful impact on the Bill or draft amendments.

RCN Scotland views on the Scottish government's updated proposals

During initial parliamentary scrutiny, the Bill faced significant opposition. In particular, the proposals to create new local care boards and give Ministers power to transfer community health and social care functions away from local authorities and health boards, were widely opposed by local government and other organisations. In an effort to reach some consensus, in June 2023, the Scottish government entered an agreement with COSLA and NHS boards to amend those plans and instead share legal accountability for social work services, social care support and community health services through a new partnership arrangement.

In June, Ministers published amendments to the Bill setting out their updated proposals to reflect this shared accountability arrangement. Instead of creating new local care boards, IJBs will be renamed NCS local boards. Local authorities and NHS boards will retain responsibility for delivering their services and their associated staff and assets. Scottish Government, local government and NHS boards will work together to provide national level oversight through a new NCS Board.

The Bill remains a framework Bill, so many details of how this will work in practice are still unknown and will be left to secondary legislation and further co-design.

The plans continue to face serious uncertainty following a decision by COSLA to withdraw its support for the Bill and from the partnership agreement, in response to continued concerns about loss of local autonomy and control.

In our further evidence to the Health, Social Care and Sport Committee we set out our views on the government's proposed amendments:

- Development of the NCS must recognise the essential role of the registered nurse in community services and care homes and ensure that clear clinical and professional governance processes are embedded within reformed structures. We don't feel that the proposals achieve this.
- Regarding the creation of an NCS Board, improved national oversight, monitoring and improvement has potential to be beneficial, particularly given that social care has been undervalued, and hasn't received the attention it deserves, for so long. But the shared accountability arrangements are very complex and the governance arrangements are not clear. We are also concerned that workforce planning could become more difficult because accountability will be shared between three partners. Giving the national board a role over monitoring and improvement will not result in improved outcomes if services remain underfunded and therefore unable to provide high quality care and safe staffing.
- We are calling for the Bill to include robust workforce planning requirements to ensure NCS services have the right staff, with the right skills, to deliver high quality, safe services. The responsibilities and accountability for workforce planning need to be clearly set out in the Bill. Scotland's Safe Staffing Act sets out clear duties on workforce planning and ensuring nursing supply on NHS boards and Ministers and we want this Bill to ensure similar clear duties for NCS services. There needs to be equity in terms of safe staffing responsibilities between NHS and NCS services.
- We remain concerned about the lack of detail in the Bill on fair work, or around how the fair work principle will be realised and enforced.
- The Scottish government states that improvements in local delivery will be achieved through reform of integration authorities. However, there is little evidence that what is being proposed is anything more than a rebranding exercise of IJBs, with the costs that are associated with such an exercise and little benefit. We are not clear how the proposed reforms will lead to improved service delivery. What's required to improve services is concerted action to tackle workforce shortages and greater investment in services to increase capacity.
- The Scottish government's proposals would remove alternative integration models which has implications for Highland where the lead agency model is used. Moving from a lead agency model to an IJB model is a significant change and we have written to the Minister, as well as the Chief Executives of NHS Highland and Highland Council, to ask about the implications for the workforce and seek reassurance about no detriment to staff.

The changes we want to see in the Bill

As discussed above, we are clear that the Bill will not solve the serious challenges facing social care and community health services and that Minister must invest in services to

tackle workforce recruitment and retention issues. However, as the Bill proceeds, we continue to engage to ensure that nursing issues are central to reform.

- **We are calling for senior nurse leadership on the National Care Service Board.** Nursing expertise is crucial in the strategic leadership of the NCS, particularly given increasing levels of clinical need within social care settings and the fact that nursing is likely to be the largest part of the NCS workforce.
- As the NCS will now be delivered by reforming Integration Authorities, we believe there is an opportunity to strengthen the voice of nursing within the integration landscape. **We are calling for Integration Authority nurse board members to have full board member status.**
- We believe that **fair work must be more embedded within the Bill** which doesn't set out how the fair work principle will be applied consistently or enforced. Nursing staff working for NCS services should have comparable pay, terms and conditions (including sick pay) to those working in the NHS.
- **We support the establishment of a sectoral pay bargaining system** and are clear that this can be progressed without the Bill.
- **We are calling for the Bill to include robust workforce planning requirements** to ensure NCS services have the right staff, with the right skills, to deliver high quality, safe services. The responsibilities and accountability for workforce planning need to be clearly articulated within the requirements for the National Board and reformed integration authorities.
- **The Bill should also be clear that the safe staffing duties introduced by the Health and Care (Staffing) (Scotland) Act apply to all services within the scope of the NCS.**
- The Bill isn't strong enough on training; providing staff with training and opportunities to develop must be required, rather than optional. **The Bill should be clear where responsibilities sit for overseeing and ensuring consistency of access to education and professional development of staff across all NCS services.**



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