

URGENT ITEM

Agenda Item	
Report No	HC/26/24

The Highland Council

Committee: The Highland Council

Date: 27 June 2024

Report Title: National Care Service Update

Report By: Assistant Chief Executive - People

1. Purpose/Executive Summary

- 1.1 This report provides the Council with an update on the National Care Service Bill as it applies 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 across Scotland. It is anticipated that the draft amendments will be published by the Scottish Government this week and so this report has been drafted to enable consideration by Council prior to the summer recess.
- 1.2 The Council and NHS Highland will be working 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. Further reports will be provided to the Council and the NHS Board as the detail becomes clearer.
- 1.3 The legislation affects Highland in particular as the only local authority which has a Lead Agency Model, all other authorities have an Integrated Joint Board model. Whilst all models will be changing to some degree, for Highland the change will be the most significant.

2. Recommendations

2.1 Members are asked to note:

- i) The proposed Stage 2 amendments to the NCS Bill set out in Appendix 1 which will result in the introduction of a single model of integration and the consequent removal of the Lead Agency Model; and
- ii) Further updates providing clarity on the legal, financial and governance implications will come forward to future meetings of the Council.

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 will have significant financial implications that are yet to be worked through. 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 useful so that work can begin on what this will mean for Highland.
- 3.2 Legal – Stage 1 of the Bill was completed on 29 February 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 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 Community (Equality, Poverty, Rural and Island) – the intention of the National Care Service reforms is to deliver improved health and social care outcomes. A number of outcome measures, such as hours of unmet need and delayed discharge, suggest that a reform of the care model across Scotland could provide benefits for communities. The Council will work with the Scottish Government with a view to maximising the promised opportunities for Highland communities.
- 3.4 Health and Safety (risks arising from changes to plant, equipment, process, or people) – there are no specific risks directly arising as a consequence of this report, but there may be implications as the new model is developed. This will be kept under review.
- 3.5 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 it is expected that the IJB model will also change under the new legislation.
- 3.6 Climate Change / Carbon Clever; Gaelic – there are no specific risks directly arising as a consequence of this report.

4. Background

- 4.1 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.
- 4.2 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. Further detail on reforms will be provided at Stage 2. The

Minister for Social Care, Mental Wellbeing and Sport will share the Stage 2 NCS Bill pack with parliament in June and Stage 2 amendments are then due to be submitted to Parliament by the Scottish Government in the Autumn.

- 4.3 One of the elements of particular interest to Highland, and which had not previously been clarified, is the model of integration envisaged by the new NCS and whether this would still support the Lead Agency Model (LAM). As Members will be aware, the LAM is only in place between The Highland Council and NHS Highland; all other local authorities using the Integrated Joint Board (IJB) model. Clarity on this has now been provided and this is set out below and in Appendix 1.
- 4.4 There has been extensive negotiation between COSLA and the Scottish Government in relation to the NCS Bill as a whole in relation to children's and justice social work services; direct funding for integration authorities; and the power to remove local Integration Authority Board members. However, this report concentrates only on the areas that are of particular relevance to Highland and not these wider aspects which are still subject to discussion at a national level.

5. Future of the Lead Agency Model - Proposed Amendments

- 5.1 The Scottish Government has engaged with The Council and NHS Highland at official level in recent days to provide information on the amendments that will be coming forward in the Autumn 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, though it is likely that there will be some adjustments introduced over the course of the Bill's passage.
- 5.2 It is too soon to understand exactly how this will impact on the arrangements currently in place in Highland, though there will clearly be significant implications in terms of finance, staffing and governance. However, the timeline for the Bill to complete all Parliamentary stages and for the legislation to be enacted is such that there is time for this to be worked through well in advance of the changes coming into force. 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 even be value in Highland being a Pathfinder authority and the potential for this will also be explored in the coming weeks and months.
- 5.3 The proposed Stage 2 amendments relating to the model of delivery are included in **Appendix 1**.

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Appendix 1 - NCS Stage 2 Bill Package: References to the Lead Agency Model Transition

NCS Stage 2 Bill Package – References to the Lead Agency Model Transition**Policy Memorandum:**

Paragraph 42 and 43 explain the current models of integration and how the lead agency model operates in Highland.

42. At present, local authorities have statutory responsibility for providing social care support, and Scottish Ministers, through NHS Health Boards, have responsibility for health care. Under the 2014 Act, and secondary legislation made using powers granted by that Act, local authorities and Health Boards work together as IAs, to manage a range of services collectively, including budgets. They are required to delegate certain functions (and budgets) to a local integration authority, and may delegate others. In most areas the integration authority is an Integration Joint Board (IJB) which includes members from both the local authority and local Health Board.
43. The Highlands area has a different arrangement also provided for under the 2014 Act, known as a Lead Agency arrangement, in which Highland Council takes responsibility for all health and social care services for children, and NHS Highland provides all health and social care services for adults. Highland Council and NHS Highland are the constituent authorities of the IA in this arrangement.

Paragraph 137 describes the proposed amendments for a single model of integration.

137. The amendments proposed are as follows:

- To remove all forms of local integration authority aside from the Integrated Joint Board model. This will limit integration schemes to this model, requiring that any integration authority using one of the other options to move to an IJB model and preventing any other integration authority from adopting a different model.
- To rename all integration authorities to NCS Local Boards (NCSLBs) to ensure a single, clear and consistent naming convention for all integration schemes in Scotland. Individual local boards would therefore be renamed to e.g. NCS Orkney board.

Explanatory Note:

The modification to the Public Bodies (Joint Working) (Scotland) Act 2014 to allow for only one possible model of integration is described:

21. Chapter 1A contains two sections, the purpose of which is to formally incorporate schedules into the Bill. Further explanation of the effect of those

schedules is given below). The following is only a brief summary of what the schedules do.

- Schedule 2A, which is introduced by section 12B, modifies the Public Bodies (Joint Working) (Scotland) Act 2014 so that local authorities and health boards will have to delegate some of their functions to National Care Service local boards through jointly agreed integration schemes. Prior to these modifications, the Joint Working Act allowed local authorities and health boards to choose one of 4 possible integration models. Delegating functions to integration joint boards was one of them. **The modifications made by schedule 2A remove the other 3 possible integration models and rename integration joint boards as National Care Service local boards.**

The modifications to the Public Bodies (Joint Working) (Scotland) Act 2014 are further described below. References to integration joint monitoring committees will be repealed as this pertains to the lead agency model.

88. Part 1 of the Public Bodies (Joint Working) (Scotland) Act 2014 requires health boards and local authorities to enter into arrangements, known as integration schemes, through which they are to delegate functions and appropriate resources to ensure the effective delivery of those functions. As enacted, the Joint Working Act set out four integration models (see [section 1\(4\)](#)). The first entailed delegation to a corporate body known as an integration joint board specifically established for the purpose. The other three options did not entail the creation of a new body, but a distribution of functions amongst the health board and local authority partners in the scheme.

89. Part 1 of the Bill's schedule modifies the Joint Working Act so as to:

- remove the three integration models that do not entail delegation to a new corporate body, and
- change the name of those corporate bodies from integration joint boards to National Care Service local boards.

90. Provisions of the Joint Working Act that refer to integration joint monitoring committees are also repealed. Those committees operated only in relation to one of the three integration models that the Bill abolishes.