

National Care Service

You can read more about the Bill at: <https://www.carersnet.org/ncs-bill/> along with information about the benefits, what the Scottish Government intends to do, opportunities for being involved and videos.

You can read the Bill and a range of documents called policy and financial memorandums [here](#).

Principles

The Bill has a set of principles for the National Care Service. These are set out in chapter one of the Bill. In summary these are

- the services provided by the National Care Service are to be regarded as an investment in society that:
 - is essential to the realisation of human rights,
 - enables people to thrive and fulfil their potential, and
 - enables communities to flourish and prosper.

It goes on to say that for this to happen, the National Care Service must be financially stable to give people long-term security and that services provided are to:

- be centred around early interventions that prevent or delay the development of care needs and reduce care needs that already exist;
- be designed collaboratively with the people to whom they are provided and their unpaid carers;
- seek opportunities to continuously improve the services provided by the National Care Service in ways which:
 - promote the dignity of the individual, and
 - advance equality and non-discrimination;
- communicate with people in an inclusive way, which means ensuring that individuals who have difficulty communicating can receive information and express themselves in ways that best meet their individual needs; and
- be an exemplar in its approach to fair work for the people who work for it and on its behalf, ensuring that they are recognised and valued for the critically important work that they do.

Statement of Benefits

Scottish Government has set out a Statement of Benefits and has said its vision is *“of a Scotland where people enjoy a high quality of life. Scotland's community health and social care services support everyone, when they need it, to lead a fulfilling life, making Scotland the best place in the world to thrive.”*

This means that “everyone should be supported to live as independently as possible and drive the decisions about their health and wellbeing and the support they need, with their human rights respected and their dignity protected. People who have lived experience of social care and community health services, whether they are people accessing services, their families and carers, or community health and care workers and providers – and the wider public – are all key partners in realising a bold ambition to create a NCS for everyone.”

The full statement of benefits, including an easy read version is available [online](#). You can watch a video of the statement of benefits [here](#).

In summary, Scottish Government has said that to achieve this vision, there is a need to further develop safe, effective, integrated and person-centred health and social care support that ensures that people of all ages can access the support they need to live a full life; improving both consistency and quality of provision.

- transforming people's experience of social care support and related services, strengthening prevention and community-based support and reform access.
- continuing to integrate community health and social care and strengthening partnership working with other services and agencies.
- ensuring that individuals can participate in their care design.
- ensuring people's needs are met holistically and driven by the outcomes that are important to them and their communities.
- strengthening prevention, early intervention and end of life care.

Embedding human rights, dignity and respect

Human rights, equality, non-discrimination and dignity are the fundamental principles that will govern the National Care Service. To support this vision, Scottish Government have committed to eight courses of action:

- embed and mainstream human rights throughout the development of the National Care Service;
- co-design community health and social care services with people with lived experience;
- develop a National Care Service Charter of Rights and Responsibilities;
- reform and strengthen complaints and redress processes to provide effective accountability and recourse;
- develop and promote inclusive and accessible communications and independent advocacy to empower people who access support;
- enshrine additional specific rights and protections for people who access community health and social care support and their families and carers, in areas such as breaks from caring and care home visiting.
- change how people access care and support in Scotland as part of the development of the National Care Service; and,
- reform the current process of eligibility criteria. Prevention will be prioritised to make sure that people can move smoothly between different types of care and support as their needs change.

Responsibility for social care and the National Care Service

Currently Local Authorities and/or Health Boards are responsible in law for overseeing and delivering social care services, although some of these responsibilities are devolved to local Integrated Joint Boards. However, this is set to change with the establishment of the National Care Service.

The Bill sets out that Scottish Ministers will be responsible for improving the wellbeing of the people of Scotland through the National Care Service and they must make arrangements to monitor and improve the quality of social care support.

However, this does not mean that social care will be delivered nationally. Care Boards will be established to deliver local services. There is more on this in the next paragraph.

Establishment and Running of Care Boards

Currently social care and community health services are delivered at a local level through Integrated Joint Boards (IJBs). These will be replaced by Care Boards.

In the same way that every person is currently served by an Integrated Joint Board and a Health Board, they will now be served by a Health Board and a Care Board in their local area. The boundaries for these new Care Boards are yet to be decided and may differ from Health Board boundaries.

There is also the provision for Special Care Boards, which will be responsible for a specific function, in the same way that the ambulance service is a Special Health Board in its own right.

The Bill sets out the following regulations in terms of the functions and running of Care Boards:

- Scottish Ministers will be able to make regulations about appointing the members of Care Boards. This could, for example, say what groups of people have to be represented.
- Care Boards will have to comply with Directions issued by Scottish Ministers.
- Ministers will also be able to remove the members of Care Boards or ask another board to take over their functions if things go wrong. They will also be able to appoint someone else to take over a service if it is failing and there is a risk of harm to people.

Strategic Planning – Scottish Ministers and Care Boards

In order to be clear and transparent about their plans for the National Care Service, both Scottish Ministers and individual Care Boards must develop and publish a strategic plan, setting out:

- Arrangements for providing the service.
- Their vision and objectives for the service.
- The costs in relation to the service.

- The ethical commissioning strategy.

Both Scottish Ministers and Care Boards must consult publicly on their Strategic Plans and Care Boards must have their draft plan approved by the Scottish Ministers.

Information, Advocacy and Complaints

Part one, chapter three of the Bill deals with information, advocacy and complaints.

Charter

The Bill proposes to create a National Care Service Charter. This charter will contain a summary of the rights and responsibilities in relation to the National Care Service for both people who receive services and to people “who have a personal interest in the wellbeing of another individual to whom the NCS provides a service”. This would include unpaid carers and their family members. The charter is intended to describe rights, responsibilities and mechanisms for upholding them.

Independent Advocacy

The Bill also enables the Scottish Government to make regulations about the provision of independent advocacy in connection with the services that the National Care Service provides. The Bill does not yet provide any further detail on what this might include.

Complaints

The Bill requires Scottish Ministers to establish a service for receiving complaints about services provided by the National Care Service and passing them on to be dealt with by the person that the provider of the service thinks is best placed to deal with them. Scottish Ministers do not have to provide the service directly, they may fulfil the duty by contracting another person to provide the service. It also gives Scottish Ministers power to make regulations about the handling of complaints about services provided by the National Care Service and other social services.

Research

Part one, chapter five of the Bill explains the powers the National Care Service will have to carry out research. Scottish Ministers and Care Boards will be able to undertake research about the services they will provide. The National Care Service and Care Boards will also be able to provide funding to others to carry out research about the services they provide.

Training

The Bill also makes it clear that Scottish Ministers and Care Boards are able to support training to equip individuals with the knowledge and skills relevant to providing services on behalf of the National Care Service. Part one, chapter five sets out that training may mean providing courses themselves, providing financial support to other training providers or providing financial assistance to individuals undertaking training courses.

Transfer of Functions

The Bill sets out how responsibility will shift from local authorities and health boards, in

relation to the provision of social care and some health care services. The Bill allows for the following transfer of functions:

- Ministers will be able to make regulations to transfer functions from local authorities or health boards to the National Care Service.
- The local authority functions they can transfer relate to adult social work and social care, children's social work and social care, and justice social work.
- Before transferring children's or justice services, Ministers will have to have a public consultation and report to Parliament on the results.
- Staff and premises can be transferred with functions, but NHS staff will remain with the NHS.

Care Records

Part two of the Bill gives powers to Scottish Ministers to make regulations to establish a scheme for sharing information. This is intended to improve the efficiency and effectiveness of services provided by, and on behalf of, the National Care Service and the National Health Service. This is intended to underpin the creation of a nationally consistent, integrated and accessible electronic health and social care record. The aim of this is to help professionals to support people in a more coordinated way and to support planning and commissioning locally and nationally.

Information Standards

The Bill makes provision about information standards. This is a document which will outline how certain information should be processed, stored, formatted etc. The Bill requires Scottish Ministers to make the Information Standard document publicly available. The Bill creates a duty for the National Care Service and National Health Service institutions (including Care Boards, Health Boards, Special Health Boards, Healthcare Improvement Scotland etc) to abide by Information Standards and requires their contractors to do so as well. This would create an overall framework for Information Standards and aims to ensure a consistent and ethical approach is taken throughout Scotland.

Right to Break from caring

The Independent Review of Adult Social Care made a specific reference to the introduction of a right to a break from caring for Scotland's unpaid carers. This is covered in Part three of the National Care Service Bill.

The Bill sets out the modifications that will be made to the Carers (Scotland) Act in order to implement a right to a break from caring. Unlike other sections of the Bill which are a framework, the section on a Right to a break is, for the most part, detailed and complex.

The Scottish Government has said that they may publish a Keeling Schedule which will show the Carers (Scotland) Act with the amendments in place in order that it may be more easily understood.

The section on a Right to Break covers a number of key areas:

- The identification of 'sufficient' breaks from caring as part of outcomes-based approach.

- Changes to eligibility criteria as regards short breaks.

The associated financial memorandum also covers:

- The scale of investment in short breaks.
- The commitment to easy access/preventative breaks.

Although the Independent Review of Adult Social Care also identified the need for a varied market of short breaks providers, this is not covered in detail but referenced only in Section 10 (a) which states that a *“local carers strategy should include plans to promote a variety of providers of support to relevant carers and to promote the variety of support provided.”*

Sufficient breaks

Part three, Section two refers to adult unpaid carers and to the identification of outcomes and needs for support. It specifies that the local authority must identify the outcome that the adult unpaid carer is able to take *sufficient* breaks from providing care.

It goes on to say that if they are not able to take sufficient short breaks, the local authority must identify the need for support and set out in the Adult Carer Support Plan what they provide, or intend to provide, in order to meet that need. Section four sets out these same changes for young carers.

The Bill places a duty on local authorities to provide support if sufficient breaks are not being provided.

It is important to note that, at this stage, the term ‘sufficient’ is not defined. The Bill does however state that this may change when the Regulations are made, and they may ‘make provisions’ in:

- the meaning of reference to sufficient breaks.
- the standards and criteria in relation to short breaks, such as nature, frequency and duration.
- forms of support that may enable an unpaid carer to take breaks.
- where the support is the provision of care for the cared-for person, the role of the cared-for person in relation to how the care is provided.

Eligibility criteria

Part three, Sections six–eight of the Bill include proposed changes to the Carers (Scotland) Act in relation to local and national eligibility criteria. Although much of this appears to be a simple change in terminology from ‘identified’ to ‘relevant’, what it means in practice is that short breaks sit out-with eligibility criteria.

This is stated as:

“relevant needs” means identified needs other than any need for support to enable carers to take sufficient breaks from providing care.”

The term ‘relevant’ specifically does not apply to the need for support to enable unpaid carers to take sufficient breaks.

In summary, for a Right to a Break, the Bill means:

- All unpaid carers must have 'sufficient' breaks from providing care as an outcome.
- The Adult Carer Support Plan must state how the local authority provide support or intend to in order that unpaid carers can have sufficient breaks.
- The local authority has a duty to provide support to enable unpaid carers to have sufficient breaks from providing care.
- The provision of support to enable unpaid carers to have sufficient breaks is not included in eligibility criteria which apply only to other 'relevant needs'.

Financial Memorandum

The policy memorandum makes it clear that the development of a National Care Service is "*an investment in Scotland's people and communities*" and this is further explained in the financial memorandum which provides more detail on the extension and adjustment of duties placed on local authorities by the Bill.

As part of this memorandum there is a focus on preventative and easy access breaks. In Paragraph 61 the Scottish Government state their intention to maintain a national short breaks fund using existing powers, and a commitment to easy access breaks, such as the Time to Live scheme, without the need to have a support plan in place.

It is acknowledged that to do so will require significant investment and Paragraphs 62 to 65 of the Financial Memorandum set this out. A range of data has been used but with a caveat that there is a wide degree of uncertainty on key areas. This includes figures such as the number of unpaid carers who will exercise their right to a break, the average cost of replacement care, the balance of easy access breaks and more personalised options.

Tables 11, 12 and 13 set out costs of Carers (Scotland) Act Breaks, the scaling up of easy access breaks, and the total additional investment respectively.

The section on the Right to Breaks in the financial memorandum concludes with a recognition of the financial benefits of investing in preventative support, in protected the health of unpaid carers, in maintaining a caring relationship and the impact that this can have more widely.

Care Home Visiting

The Bill also includes provisions under "Anne's Law" to make sure people living in care homes can see people who are important to them even during the same or similar circumstances to the Covid-19 pandemic. This means:

- Scottish Ministers can give Directions to care homes about visits to residents, or visits by residents to other places.
- Care homes will be required to comply with these Directions.
- Using Directions allows flexibility for Ministers to respond to new diseases or other circumstances.

Regulations

Part four of the Bill contains the Final Provisions, including Regulation-Making Powers of Scottish Ministers. The Bill makes clear that the powers can be used to make different provision for different purposes and also for different areas. For example transferring *“the function of providing a service from a local authority to a National Care Service institution in one set of circumstances but not another.”* The Bill also provides the power to make regulations to modify an existing Act of Parliament in relation to the powers it specifies. There will be a Scottish Parliament scrutiny process that will apply to regulations made under the powers of the Bill.

Being Consulted: Co-design and the National Care Service

Scottish Government is also hosting a series of workshops (on Microsoft Teams) to provide more information about the Bill. These will be held on:

- Tuesday 9 August, 6pm to 7pm [Register](#)
- Wednesday 17 August, 10am-11am: there will be a session for Zoom users. To register, please email NationalCareService@gov.scot
- Monday 22 August, 10am to 11am (with BSL interpretation) [Register](#)

The National Care Service Bill was introduced to the Scottish Parliament on 20 June 2022. It will go through three stages at the Parliament before it can be passed. It goes through Committees and is debated in the Scottish Parliament at each stage. There will be opportunities for unpaid carers and carers organisations to provide information and evidence throughout the process.

The National Carer Organisations produced a guide for unpaid carers on how law is made in the Scottish Parliament. This provides more information on the process for Bills and how you can get involved. Download this [here](#).

Codesign

The National Care Service will be designed with the people who access and deliver social care support and other relevant services. Scottish Government has said that *“it is important that we put lived experience at the heart of our future co-design programme to ensure that it embodies human rights principles and delivers for the needs of people and not the system.”*

Scottish Government will co-design parts of the National Care Service that will operate at national level with people who access and deliver social care support. This will include a Charter of Rights, a national complaints process, and an electronic social care and health record. The Scottish Government will work with local bodies to support a consistent approach to co-design across the country.

To support this co-design approach the Scottish Government have held a series of initial 'National Care Service Design Investigations' with members of the public to explore more deeply some of the key themes emerging from the consultation on the National Care Service and will go on to:

- establish The National Care Service Design School in Summer 2022. This will offer training and support to the organisations and people who access and deliver social care support, enabling them to work in partnership to design services;
- establish a Lived Experience Partners Panel. This will be an opportunity for people to register an interest in being involved in co-design activities, and from which the Scottish Government will coordinate opportunities for involvement. This will be open to all Scottish residents and places will be advertised via the Scottish Government website.

Following this work, Scottish Government will hold the first National Care Services Gathering, where they will bring together people who have participated in the co-design sessions with elected representatives from a range of political parties, along with those with lived experience and other stakeholders.

Find out more about the codesigning the National Care Service [here](#).

National Carer Organisations Contacts:

Claire Cairns, Coalition of Carers

coalition@carersnet.org

Fiona Collie, Carers Scotland

fiona.collie@carerscotland.org

Kate Hogarth, Shared Care Scotland

kate.hogarth@sharedcarescotland.com

Suzanne Munday, MECOPP

suzanne@mecopp.org.uk

Paul Traynor, Carers Trust Scotland

p Traynor@carers.org