**National SDS Collaboration**

**Response to call for evidence**

**National Care Service (Scotland) Bill – Stage 2**

**September 2024**

**About the National SDS Collaboration**

The National SDS Collaboration is a group of stakeholders involved in the implementation and improvement of Self-Directed Support in Scotland

Established in 2022, the group meets monthly and includes representatives from across public, private and third sector, who all have an interest and a role to play in delivering and shaping SDS.

You can find the most up to date list of members of the National SDS Collaboration [here](https://www.sdsscotland.org.uk/wp-content/uploads/2024/03/Organisations-represented-in-the-National-SDS-Collaboration.docx) and Terms of Reference for the group [here](https://www.sdsscotland.org.uk/wp-content/uploads/2024/03/SDS-National-Collaboration-TOR-v4.docx).

The National SDS Collaboration provides a channel for the voice of national stakeholders to influence Scottish Government developments around Self-Directed Support.

Since being established, the Collaboration has played a key role in developing the national strategy for SDS implementation, the SDS Improvement Plan 2023 – 2027. [You can find out more about this work here](https://www.sdsscotland.org.uk/news/projects/sds-improvement-plan-2023-2027/).

1. **What is your view of the proposed National Care Service strategy (see proposed new sections 1A to 1E)?**

The new proposals make sense, but they do not go far enough. The human rights centred approach that led to the Independent Review of Adult Social Care (Feeley Report) have been ‘dulled down’ by the latest iteration of the Bill.

People had hoped for real change at the inception of work towards the NCS, based on the findings of Feeley. Now, we have a sense of exclusion and a lack of transparency with the whole process. The Verity House agreement was reached behind closed doors- the debate about the place of local authorities and CoSLA is immaterial when we consider the process did not adhere to the NCS’ ambitions of valuing the voice of lived experience as equal to that of other stakeholders. In effect, the NCS ‘failed at the first hurdle’ on this point.

Accepting that the Verity House agreement is now in place, people now need assurances that CoSLA and Scottish Government will not play one off against the other and true partnership working becomes the norm for the benefit of all of Scotland’s people.

Focus needs to be adjusted now to consider the ‘how’ rather than the ‘who’ to realise the ambitions of the NCS as a driver to ensure human rights for all. It will rely on a cultural shift and a move towards sharing responsibility via transparent mechanisms and not behind exclusionary closed doors.

1. **What is your view of the proposal to create a National Care Service Board, and the provisions about the role and functions of the Board (see in particular new Chapter 1B of Part 1, and new schedule 2C)?**

There is potential for the NCS Board to ensure quality and equity of access to appropriate, person and community centred support for everyone. This function must be central to the function of the Board. National consistency must be guided by local difference. It must learn from good examples of current social care delivery.

Those with lived experience and frontline staff must be equal members. This will require training and support to enable them to take their place with renumeration to carry out their duties. Those who currently hold a power position will also require training and support to move to a position of shared decision making - they need to be supported to ‘let go.’

There needs to be clarity on who will sit on the Board.

The number of Board representatives with lived experience needs to guard against tokenism by ensuring there are several people bringing their expertise. People will represent themselves, therefore having different voices will aid more accurate decision making. Clarity on how people will be identified and recruited to Board functions needs to be made.

Clarity is required on how wider consultation will inform the Board from a range of stakeholders.

Most people access their support via a registered support provider. It is therefore essential that national provider organisations are able to represent themselves as well as via their umbrella organisations. National third sector organisations should also be represented.

The SDS Values and Principles of, encompassing the ethos of Independent Living must be a thread throughout the legislation; SDS must not be seen as ‘an add on’- after all, community based social care is delivered under the mechanisms of SDS. If we were to realise the ambitions of SDS then the human rights associated with equitable social care for all Scottish citizens would be realised.

Equity, quality and recognition of diversity as being good things must be realised for everyone. E.g., currently people residing in rural, remote and island communities cannot access their right to choose between the 4 Options of SDS. This is partly because support providers are not well enough supported and valued as equal partners by the current system and culture to deliver their services in geographically hard to reach places. The NCS must ensure that such inequalities are guarded against via subsequent policy and appropriate funding.

Clarity should be reached by the Scottish Government/NCS Board on who will be included in the five yearly reviews of the national Strategy.

It is not clear how the National Board will work to ensure shared decision-making with communities- there is fear with some members that there will be more communication up to the central functions rather than to communities. Reassurances are required that the Board will demonstrate a clear line to the accountability it will hold to the people and communities of Scotland.

1. **What is your view of the proposal to establish National Care Service local boards and to remove other integration models (see in particular Chapter 1A of Part 1, and new schedules 2A and 2B)?**

Changing the name of IJBs to National Care Service Local Board maybe clearer and more understandable title for members of the public. However, members of the National SDS Collaboration require assurances and clarity in the Bill that this is not just a rebranding of IJBs. To allay our fears, we require more information on how the NCS will bring about the ambitions for whole system improvement in Scottish social care. Attention to these points must sit in improved Bill detail and in the subsequent statutory guidance and policy.

Local Care Boards must be accountable to local people and should be the mechanism for local social work, social care and community health service delivery. People are experts in their own lives and those providing support are experts in that provision. Through SDS, citizens choosing Options 1 and 2 also become commissioners of their own support. NCS legislation should support equal co-production between Local Care Boards, people and those providing social work, social care and community health services.

Local Boards should work with local care providers, people, and other key stakeholders to ensure the rights, values, standards and expectations set nationally reach fruition locally, taking into account the variations that are naturally in place as a result of the diversity in the communities and geographies of Scotland.

We welcome the focus on preventative approaches and early intervention. Most preventative services are delivered within communities- through natural connections with friends and family and via third sector organisations. Equally, it is the third sector that provides independent advocacy, advice and information and many of our best quality registered providers are third sector organisations. We therefore request that provision is made for adequate (i.e. more than one) representation on the Boards from the third sector, registered support providers and people with lived experience.

Delivering services costs varying amounts depending on the place e.g. longer road journeys and ferry costs for rural, remote and island communities. The NCS National Board will be required to work carefully, fairly and based on evidence to ensure the true cost of delivering services is achievable for each Local NCS Board.

It is not clear in the current iteration of the Bill how the legalities, governance, accountability and responsibility of NCS functions will flow and be communicated between the National and Local Boards.

More information needs to be provided on who will be employed by both the National and Local Boards and how the need for a broad range of experiences will be met e.g. from local government, social work, representatives from the third sector and registered support providers, as well as those with lived experience.

**4. What is your view of the proposed new provisions on monitoring and improvement (see new sections 12K and 12L) and on commissioning (see new section 12M)?**

**Monitoring and improvement**

We agree that a fundamental principle of the NCS should be to set national quality and improvement criteria. The Board equally should have powers to ensure quality standards are developed and workable and measurable plans are set to realise improvements, using human learning systems and improvement science methodology to achieve these ambitions. There must be a clear reason for gathering data and monitoring and evaluation information from partners. It must carry these functions transparently and in consultation with stakeholders including people with lived experience.

Mechanisms to enable wider citizen, third sector and support provider consultation in the quality and improvement setting must be a central principle.

There needs be clearer information on how the NCS will demonstrate its impact to everyone with a vested interest in Independent Living, SDS, social care, social work and community health services.

1. **What is your view of the proposed new provisions on monitoring and improvement (see new sections 12K and 12L) and on commissioning (see new section 12M)?**

**Commissioning**

Current legislation supports ethical commissioning, but local authorities remain committed to competitive procurement which has demonstrable negative impacts on people, communities, providers, including in the relationships between all parties. Section 12M does not go far enough to ensure there is fundamental change in direction to ensure ethical commissioning becomes the modus operandi. We urge the Scottish Government to make significant changes to this section of the Bill to ensure a culture shift is made via a change in current working practices to ensure fair, collaborative ethical commissioning to become the norm, supported by the duties of within NCS legislation.

We agree with the principles set out later in section 41 that any profits made via social care must be invested back into activity which will directly and positively impact on the lives of people requiring such services and those employed by them. We also agree with the principles in the same section on the management and ownership of social care agencies. Our preference is that social care provider services are delivered collaboratively including via individual commissioning by personal employers for the services delivered by personal assistants.

Ethical commissioning and adequate, agile investment will help ensure that fair work principles can be adhered to and that social work and social care become careers of choice for more people. The NCS should use this opportunity to promote social care and personal assistant roles as comparable in status to similar roles within health care.

1. **What is your view of the proposed amendments to the Public Bodies (Joint Working) (Scotland) Act 2014, as set out in the marked up version of the Act?**

Please see views shared in question 3. Our only remaining point here is that the proposed changes affect people in Highland. They will see a fundamental change in service delivery, employment arrangements and accountability functions for the people of Highland and it is our opinion that a separate and detailed consultation with these communities should be undertaken by the Scottish Parliament/Scottish Government.

**8. What is your view of the initial draft of the National Care Service Charter?**

We agree with the principle of having a charter, but at this stage we feel that the current version fails on four key principles:

1. There have not been enough voices of lived experience included in shaping the Charter.
2. It is not accessible
3. It does not refer to the values and principles of SDS, which should be the opening gambit to the charter
4. It only references independent advocacy and does not include the right to independent information and advice.

Fundamentally if SDS is how we do social care in Scotland, why is this not mentioned first in the charter?

The Minister makes reference to the Expert Legislative Advisory Group in her Letter and associated papers. We have concerns that the ELAG’s work was rushed and did not fully and inclusively include people with lived experience or fair representation from registered support providers. An improvement to ensure people are appropriately supported to engage needs to be considered for future collaborations.

**9. Do you have any other comments on the Scottish Government’s proposed draft Stage 2 amendments to the National Care Service Bill?**

We fully support the inclusion of: ‘*Independent, advice, information and advocacy;’*

*‘13: The Scottish Ministers may by regulations make provision about the provision of independent* ***advice, information and*** *advocacy services in connection with the services that the National Care Service provides.’* (page 18, marked up version).

The extension of the right to independent advice, information and advocacy needs to additionally reach those residing in residential care. We look forward to more detail in the ‘how’ which we anticipate contributing to as part of the development of statutory guidance and policy. To enhance the potential of this inclusion, clear links to the SDS Statutory Guidance should be made in the NCS Statutory Guidance. Clear planning, responsibilities for commissioning and funding quality independent support functions need to be developed. Learning from the Scottish Government funded Support in The Right Direction projects and through the provision of independent advocacy services under rights in mental health legislation should inform future principle setting, service design and commissioning.

The NCS needs to make provision in how it will link with national and community planning mechanisms to ensure communities are best placed to flourish. By ensuring there is adequate housing, career prospects, schools, connections and other services we will be in an improved position to attract social care workers to all areas of Scotland and most crucially to rural, remote and island communities who currently lack adequate social care provision.

National SDS Collaboration members expressed about how the expectations of the UN Convention on the Rights of the Child would be incorporated into the NCS and the Scottish Human Rights Bill. There were questions about how people’s human rights would be protected in practice. We therefore request that more information is provided on this.

As the Bill currently stands, there much on the structures of the potential new arrangements, but there has been little attention given to changes in culture, relationships and funding (including how it is allocated between stakeholders) that will be required to realise potential, seismic positive changes.

We are disappointed and have been hampered by the lack of accessibility to engage in this consultation. To reach this point, our consultation facilitator used voluntary time to read 128 pages of material to then be able to develop resources to engage with National SDS Collaboration members. The Scottish Parliament should learn from this and we request closer adherence to the principles set out in the bill to ensure people are communicated with in ways that are accessible to them. Please ensure that all future consultation processes include accessible formats and do not rely on an ability to read legal documents, as required by this process.