

**REPORT TO:** East Lothian Council

**MEETING DATE:** 23 August 2022

**BY:** Executive Director for Education and Children's Services

**SUBJECT:** National Care Service for Scotland: Delegated Powers

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## **1 PURPOSE**

- 1.1 To ask Members to delegate authority to officers to respond to consultation exercises, and submit evidence, in respect to the Scottish Government's proposal for a National Care Service for Scotland and the National Care Service (Scotland) Bill.

## **2 RECOMMENDATIONS**

- 2.1 Members are asked to grant authority to the Executive Director for Education and Children's Services to submit a response to any Scottish Government or Scottish Parliament consultation on any aspect of the proposal for a National Care Service for Scotland, where it is not practical to have this response approved by Council in advance, as detailed in paragraph 3.8.

## **3 BACKGROUND**

- 3.1 The National Care Service (Scotland) Bill was introduced to Parliament on 20 June and its accompanying documents were published on 21 June. The Bill sets out provisions to enable Ministers to transfer social care responsibility from local authorities to local care boards and a National Care Service (NCS). The Bill establishes a National Care Service; sets out provision for the processing of health and social care information; and sets out provision for the delivery and regulation of social care.
- 3.2 The Council responded to an initial consultation exercise on the proposal to establish a National Care Service, a copy of which response was lodged in the Members Library Service in November 2021.
- 3.3 The Bill, as published, includes the power to transfer Children's Services and Justice Social Work Services to a National Care Service using secondary legislation, but a final decision on this will not be taken until further public consultation and evidence gathering with key partners has

been carried out. The results of this consultation will be laid before the Scottish Parliament alongside further regulations. While the Bill has only just been introduced and will be subject to full parliamentary scrutiny it is anticipated that a process of assessment and co-design will be initiated while the Bill is progressing.

- 3.4 The Council's concern and priority is that individuals and communities get the services they need at the right time regardless of where they live and of their individual circumstances. The Bill as it stands has the potential to have a significant impact on current services and the workforce, creating uncertainty and impacting on the ability to recruit and retain staff. At this stage, there is a lack of clarity on how the NCS will be financed with considerable uncertainty on how the proposals will impact on local authority budgets and no account being taken of existing policy commitments which have significant cost implications. The impact of the provisions set out in the Bill may also impact the Council's sustainability with the potential loss of a critical mass which could have a significant effect on the ability to maintain other core statutory local authority functions. It is therefore, essential that the Council's views on proposals are reflected as part of the ongoing consultation process.
- 3.5 A recent review of the Corporate Risk Register now places the establishment of the National Care Service as the Council's highest risk with a score of 20 (highest). The residual risk score is also 20 as it is impossible to treat or mitigate at this stage. The NCS working group (that developed the initial response to the consultation) has now been reconvened, chaired by the Executive Director for Education and Children's Services. The group will be monitoring developments, developing any responses required to Scottish Government consultation exercises and scoping out the impact on all Council services.
- 3.6 A consultation has been launched on the Bill and the accompanying Financial Memorandum with a deadline for responses of 2 September 2022. The working group will be considering the questions and using the previously agreed comprehensive repose to formulate a response to this consultation.
- 3.7 Consultation exercises in respect of the Bill and any associated secondary legislation or guidance are likely to continue at pace if the Scottish Government is to meet its ambitious timescale of introducing this legislation in the current parliamentary term.
- 3.8 It will not always be possible to bring a proposed response to a consultation exercise to a meeting of the Council for approval, if the deadline for responses is to be met. Accordingly, members are asked to delegate authority to the Executive Director for Education and Children's Services to approve and submit any response on behalf of the Council, after consultation with the Group Leaders and Councillor McIntosh. Copies of all consultation responses will be shared with Members through lodging these in the Members' Library Service.

#### **4 POLICY IMPLICATIONS**

- 4.1 There are no policy implications from this report. However, if the proposals contained in the National Care Service consultation are fully implemented they could constitute the biggest change to social work services since the 1968 Social Work (Scotland) Act and result in the largest re-organisation of local government since 1995. It is therefore essential that the views of the Council are reflected in the ongoing consultation processes.

#### **5 INTEGRATED IMPACT ASSESSMENT**

- 5.1 The subject of this report does not directly affect the wellbeing of the community or have a significant impact on equality, the environment or economy.

#### **6 RESOURCE IMPLICATIONS**

- 6.1 Financial – none.  
6.2 Personnel – none.  
6.3 Other – none.

#### **7 BACKGROUND PAPERS**

- 7.1 East Lothian Council Response to the National Care Service Consultation – Report to MLS November 2022

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