

FUNDING THE NATIONAL CARE SERVICE FOR SCOTLAND AN ANALYSIS OF THE FINANCIAL MEMORANDUM TO THE NATIONAL CARE SERVICE (SCOTLAND) BILL 2022

SUMMARY

The establishment of a National Care Service for Scotland could be the most important change in health and social care since the establishment of the NHS in 1948, provided it is adequately funded. For these reasons, Social Work Scotland believes that the Scottish Parliament, stakeholders, and public deserve to see more than a “framework Bill” with a Financial Memorandum that *excludes* the social care reform programme that is integral to the National Care Service and necessary to its success. **It is far from clear that the full costs of the National Care Service are affordable.** MSPs need greater clarity on that key issue during Stage 1 of the Bill.

Since that information is not in the Financial Memorandum, it is a disappointing document. We divide our summary, including comments and concerns, into five groups: generic concerns, NCS national costs, NCS care board costs, impacts on local authorities and other bodies, and costs for carer’s rights to breaks.

Generic concerns with the Financial Memorandum

1. **It does not cover the full costs of establishing and running a National Care Service** in Scotland that meets the aspirations of the Feeley Report and the Scottish Government’s own Autumn 2021 NCS consultation. Instead of seeing the social care reform programme as part and parcel of the National Care Service, these have been separated. That means that MSPs, civil society and the public, cannot see the total costs in order to be able to discuss any **priorities or alternatives**, or any required **additional funding mechanisms** (as Derek Feeley believed would be necessary and asked to be reviewed in his final recommendation). **MSPs are entitled to be clearer about the overall affordability of the National Care Service including all the necessary service improvements during the Stage 1 scrutiny and debate**
2. The FM is largely confined to the **establishment and running costs of the NCS Institutions** – *nationally*, an expansion of the Scottish civil service at a net additional cost of between £83m and £124 million; together with an undetermined number of local Care Boards to replace Integration Joint Boards and take over social work and care functions of Local Authorities as specified later in Ministerial directions or secondary legislation, at a net additional cost of between £142m and £376 million.
3. **Service improvement investment is specifically excluded** from the scope of the Financial Memorandum (at paragraph 13) “in order to only focus on the impact of the Bill”. These are described as “Scottish Government commitments” whose “effect on the NCS” have not been included in the costings: increased **investment in social work services**, and in **early intervention and prevention**; **Fair Work** pay increases and improvements in terms and conditions for adult social care staff in commissioned services; increases in **Free Personal and Nursing Care** rates to cover more of the care costs in care homes; **removal of charging** for residential care; and **investment in data and digital solutions** to improve social care support.

The costs of **commissioning culture changes** are also excluded later in the FM in paragraphs 55/57¹.

4. Some **key Feeley recommendations are missing** from this list, including: annual NCS budgets that rigorously reflect the care implications of demographic change; meeting existing unmet needs; the reform of eligibility criteria; and improving performance and management information.
5. Such **investment is necessary for the success of the National Care Service**, and is presupposed by the economic benefits set out in the FM on pages 4-5. Those benefits cannot be realised by the institutional establishment of the NCS, but only when combined with the programme of investment in prevention and other services to better meet needs and realise human rights. These social care reforms seem relatively unaffected by the co-design process, which in any case must work within funding envelopes, and we cannot see **any reason why cost estimation ranges could not be given in the FM**.
6. Social care investment costs also deserve **Parliamentary scrutiny** during Stage 1 of the Bill, as well as wider public discussion. Since the **organisational costs total between £225 and £500 million**, it is far from clear that the total budget for the NCS will be enough to fund the service investments needed. The total NCS budget is “more than **£840 million**” according to the Scottish Government’s *Resource Spending Review* in May 2022. The alternative formulation used since the 2021 *Programme for Government* has been a 25% increase, and this is the figure used in the FM, with 2021-22 as the implied baseline².
7. Furthermore, the **National Care Service principles** are set out on the first page of the Bill and are not cost-neutral. Social care as an **investment in society**, the need for NCS services to be **financially stable**, centred around **early intervention and prevention**, and for the NCS to be a **fair work** exemplar, all have either recurring cost implications, or need significant medium-term investment to provide the prevention services that can reduce longer-term costs alongside better outcomes.
8. Only the few service investments that require changes to *primary* legislation have been included in the FM. For **carers’ rights to breaks** a very slow build up results in costs of between £16-£27 million by 2026-27 with steady state annual funding of £82-£133 million not reached until 2034-35. To these sums the Scottish Government will add funding under existing powers to increase easy access short breaks provided by carers centres and the third sector: £25m by 2026-27, reaching a recurring steady state of £34-£37 million by 2029-30. The carers section is the only part of the FM that explains the price-basis of cost-estimates, which for carers are at 2022-23 prices. Updating for inflation for subsequent years is not mentioned.
9. The other service improvement in the Bill and FM is “**Anne’s Law**”, giving “rights to people in adult care homes to see the people important to them even during outbreaks of infectious disease”. This is costed at one-off funding of £276,000 for the Care Inspectorate over the next two years: “thereafter, improvements to visiting will become embedded in the sector and we estimate that costs will fall away from year 2024/25 onwards”.
10. **Inflation is not dealt with transparently in the Financial Memorandum**. The only place where inflation receives attention is in the section on the “illustrative” costs for local authorities in “providing services that could be transferred to care boards”. Here local authority gross

¹ In the standard version of the FM there are two paragraphs numbered 45; this is corrected only in the easy read version, hence our use of double paragraph numbers

² FM paragraph 14: “Overall the Government has committed to increase public investment in social care by 25% over this Parliamentary session (2021-26)”. The latest LFR03 expenditure data is for 2020-21 – *one year earlier than the baseline*. Using 2020-21 figures, if the 25% were based on total social work and care spend, less charging and Covid income, then 25% would be **£1,201 million**; if based on Adult Social Care, plus pro rate share of service strategy, less charging and Covid income, then 25% would be **£915 million**. The £840 million figure seems below the 25% increase.

expenditure on social work and social care in 2019-20 is updated for each year to 2026-27 using forward inflation projections provided by the UK Office for National Statistics, plus 3% for demographic change and pressures above inflation, less unspecified savings. But local authorities have not received full inflation or received demography funding in the local government finance settlements; and the May 2022 *Resource Spending Review* flat-lines local government funding going forward in *cash* terms, meaning an annual reduction over £1 billion in real terms by 2026-27 compared to 2021-22. So, the figures in Table 2 are an illusion, and also do not appear to do any real work within the NCS estimates. In any event, future transfers from councils need to be based on local authority *grant funding* from the Scottish Government not on local authority *spending*, as that is also funded from council tax and non-domestic rates. Inflation is clearer on in the section on Carers rights to a break, which have been costed at 2022-23 prices according to a helpful footnote. The FM does not tell us the price basis for the sections on NCS organisational costs, but we understand from communications between COSLA and the Scottish Government that 2% per year has been assumed for the care board costings, with 2-3% for the national NCS costs. It is unclear whether the current expenditure which is netted off to create the estimates of additional cost has also been updated.

11. The **VAT position for the National Care Service appears potentially serious, and may increase costs significantly**. Local authorities can reclaim VAT on non-business and other exempt activities, but government departments and the NHS cannot. The FM explains:
 Currently Integration Joint Boards are established in a similar way to a local authority body, and can therefore reclaim VAT on services. If care boards are not able to reclaim VAT in a similar way, there could be a significant financial impact. This could reduce the overall funds available to spend directly on social care support. Work is underway to understand this potential cost and how it might be mitigated to ensure maximum support for front line services. VAT costs are not assumed in table 7 or 8 at present. [Page 15]
12. **VAT** is an important financial issue and we believe that **MSPs are entitled to know the worse-case additional cost scenario**. Presumably estimates could be made based on the position of the Scottish Health Service, including that part which is within the civil service.
13. Finally, all NCS costs in the FM are **additional**, and take into account attributable current *organisational* spending by central and local government, not *service* spend (except in the calculations for costing carers' rights to a short break). But the **current organisational spending on social work and social care is not fully quantified in the FM**, so no-one can see the **total costs** of that part of the National Care Service for Scotland that has so far been costed.
14. Across the FM, the **general problem is simply that there is insufficient detail** on the costing assumptions and calculations to allow meaningful scrutiny.

NCS national organisational costs

15. Costs are divided between the **establishment phase** ending in 2025-26 and for **running costs** starting in 2025-26 and reaching steady-state in 2026-27. As expected, staffing costs are the highest element in both phases but "headcount" staffing numbers are only given in the tables for the establishment phase, peaking at between 440-660 additional staff in each of 2023-24 and 2024-25. Is not clear whether the "headcount" figures count people or whole-time equivalents (WTE), whether they are permanent or temporary employees, or management consultants; or how many may move into the NCS national staffing.
16. Since **staffing costs** are provided, the average staff costs can be calculated but only for the establishment stage: these range from £90k per person in 2022-23, to £107-107k per person over the next two years, falling to £80k per person in 2025-26. These are **high average unit costs**, even allowing for any included employers NI and Pension contributions, and is unclear

whether his is because they include the CEO of the NCS, and other senior civil servants, or are inflated by the high costs of management consultancy. While non-staff costs for the establishment phase are not large, they increase sharply per WTE.

17. **Ongoing national running costs** for the NCS are based on “the full range of functions”, that is for adult social care, children and families social work, and justice social work (see paragraph 38), so scope differences do not explain the wide range projected, between £83m and £124m by 2026-27. The FM tables do not give the staffing headcounts for the ongoing staff costs which account for 73% of the total ongoing costs. Paragraph 39 states that “Total headcount is expected to grow to the region of 500-700 people, which is in line with other large areas within government, such as social security”. However, since these 500-700 people “are not all additional posts”, they cannot be compared to the staff costs in the FM table of £60 to £91 million, which are only for *additional* costs. (No information is given about the numbers of civil servants employed on social care policy issues assumed to transfer to the NCS). The lack of current and future staff headcounts which relate clearly to the *additional* staff running costs means that it is **impossible to be clear about the permanent national staffing of the NCS** as an addition to the Scottish civil service. This is a major gap in the information normally provided in an FM, and is one of several key issues which impair financial scrutiny of this Bill.
18. It is also not clear whether these costs already include provision for the **special national boards** that may be needed, or whether those costs will be additional. The figures *do* include the cost of the **National Social Work Agency**, estimated to be between £8-£12 million annually, but with no further information provided. Further debate is needed about whether the National Social Work Agency should be part of the civil service and hence under direction of Scottish Ministers, or whether it should be more arms-length in order to protect the independence of “national leadership to the social work profession” on professional issues.

NCS Care Board costs

19. Set up costs totalling £16-£24m over two years fall to the Scottish Administration, while Care Board total running costs in 2026-27 range between **£142m and £376m**, which is 2.6 times higher. Two explanations are given in the FM - fewer care boards than 32 are cheaper (economies of scale?), and staff transfers may be achieved in all Care Boards (for the high estimate) or achieved in fewer areas or in none at all (for the low estimate). These “are all high-level estimates which will be refined as proposals are further developed through the co-design and options appraisal process” which the Scottish Government expects to be undertaken in each local area. ***But can individual local Care Boards decide not to directly employ the local authority social work and social care staff?*** Social Work Scotland is concerned that commissioning social work services risks undermining the rights-based relational social work that is needed by making it transactional; it may also result in some variation between local areas, something that the Scottish Government criticises in the current local government services, but without clearly distinguishing between warranted and unwarranted variation.
20. These **additional running costs of between £142m and £376 million**, compared with the status quo, exclude an estimated £25m-£40 million of relevant current spend by local authorities, health boards, and IJBs, capable of being transferred to Care Boards (paragraph 48/49), but no details are given about the make up. It is worth pausing to understand what is being said. At the lowest estimates, £142m is additional to current organisational spending of £25m. So, the lower end, the total organisational cost of Care Boards, is £167m compared to a £25m *status quo*; and at the upper end is £416m compared to £40m, which is to say almost ten times higher. These are big increases, before any service investment.
21. The **price-basis** for these estimates is not stated, but we understand from COSLA that civil servants have confirmed that 2022-23 is at current prices, and that 2% per year has been added for inflation. In any event, the figures are likely to **require revision for rising prices**

during 2022-23, and beyond for at least the first part of the remaining Scottish Parliamentary term.

22. As stated, the higher estimates include **staff transfer costs**, which “could involve up to 75,000 employees across social work and social care. Costing of this is difficult as all local authorities may have different pay rates and terms and conditions for their staff, which will need to be rationalised within a single service” (page 15). The FM states that additional pay would cost up to £43m in each of 2025-26 and 2026-27 (so no inflation assumed here?) and standardising terms and conditions would cost up to £84m in 2025-26 and £120m in 2026-27. It is surprising that the service condition changes cost nearly three times as much as the pay additions in the final, steady state year: more detail is needed to explain this.
23. The FM implies that the pay figures take account of **Fair Work**, in that it states that: “The figures for pay and terms and conditions set out in table 8 have been baselined against current assumptions on Fair Work” [FM, page 15]. However, **there is no information about what this means for social care workers’ pay and terms and conditions**, how this has been costed, and how much of the totals of £43m for pay and £84m in 2025-26 and £120m in 2026-27 for terms and conditions this represents.
24. In the table for additional costs for Care Boards, the minimum costs pay and terms and conditions lines is £0m in each year, reflecting a “zero transfer” scenario. But local authorities which continue to employ care staff directly, whose work would then be commissioned by Care Boards, still need to be paid at Fair Work levels falling to be met in the commissioning, so should those Fair Work costs not also be reflected in the “zero transfer” option? That seems to be a mistake.
25. The FM states that the Care Board cost estimates exclude costs for **VAT** and for **assets**, but include some provision for **staff pensions** “for staff affected by any changes” – it is unclear whether this means for all directed employed staff, including transferred staff. It is really **necessary to see more detail** about the calculation of the pay and service conditions lines, which **together cost up to £163m**, to better understand the assumptions.
26. Costs may also rise when further work is done on **asset transfers or leases** as “No capital costs of any asset transfer, or revenue costs of any asset maintenance, are assumed in table 7 or 8”. There is also no mention in the FM of Council **debts and other liabilities** associated with social work and care assets and services. As stated earlier, the **VAT position** may add significant costs when this is clarified.

Impacts on local authorities and other bodies

27. The FM at paragraph 53/54 states that the Scottish Government will be undertaking a “thorough option appraisal” with COSLA on the financial impacts of the NCS on local authorities. These are bound to be very disruptive. Social work and care services account for between a quarter and a third of council budgets, depending on the scope is adult or all social work and social care. Front-line services are often delivered from neighbourhood offices shared with other services working closely together, and be no longer viable or disrupted by staff transfer. Similar issues arise for many Council headquarters functions supporting strategic and service planning, policy development, commissioning, purchasing, financial management and administration, IT systems, management information, assets management, legal advice, welfare rights, etc, not just for social work and care but for other services.
28. Another problem is **the identification of the funding councils receive for social work and care services**. This cannot be based on actual expenditure, as this is based on income from Council Tax and Non-Domestic Rates, as well as government funding, and would also disadvantage the majority of councils which have sought to protect social work and care

budgets, compared to others³, because these services are needed by their most vulnerable citizens. There are also problems in basing the transfer on the Grant Aided Expenditure” (GAE) data used in the grant distribution calculations. The development of GAE methodology was largely frozen by the 2007 Concordat with COSLA; social work and care GAE requires radical overhaul, especially in the extent to which it recognises household poverty, as well as area deprivation, among other drivers of population need.

29. A National Care Service will **need fair and sensitive resource distribution** methodology to proportion funding to population need at local level – at least down to Care Boards. In our November 2021 NCS consultation finance submission⁴, Social Work Scotland urged the Scottish Government to set up a working group as soon as possible to review the distribution methodologies, with COSLA, Integration Chief Finance Officers, SWS, and other stakeholders. **None of these issues are addressed in the FM** and the Scottish Government should set out its approach to the joint work required with COSLA and other partners as soon as possible.
30. The **impacts on health authorities** are much less, because staff are not transferring from the NHS to Care Boards but will have community health services commissioned. Could these be commissioned from other providers, with risks of creeping privatisation?
31. The impacts on **other bodies**, such as the third sector or private care providers have still to be determined. As with the commissioning policy changes, Social Work Scotland has previously expressed concerns that “there is a serious risk that Fair Work implementation, increased FPNC payments, and other measures will simply increase private care prices, particularly in the care home sector, rather than squeeze profits or other value ‘leakage’” – see also the recent STUC report⁵.

Costs for carer’s rights to breaks.

32. The Feeley report rightly recognised the foundational role of unpaid care in the health and care systems. The Scottish Health Surveys consistently show that only about 3% of adult carers in Scotland report have a break from caring. For full-time carers the figure is still only around 9%. Social Work Scotland supports the Bill’s intention to create rights for carers to have a break from caring, but is concerned that this has not been specified in terms of carers rights to **a minimum frequency or duration**. (We also call attention in our fuller paper on this topic⁶ to the need to implement other Feeley recommendations about or affecting carers). The FM does not fully explain how the “steady state” cost estimates for **£143 million** [£116m to £170m] by 2034-35 to support more carers having a break were calculated, partly to be consistent with the rest of the FM, and partly because they have been derived from a complex and impressive NCS Carers Right to Breaks Funding Model which clearly sets out all the variables involved in the calculations, together with the data, assumptions and judgements used to set their numerical values. **All costs are at 2022-23 prices**, which means **a commitment is needed to meet future inflation**. We have three main criticisms: there is no funding for at least four key issues; the phasing is unnecessarily long; and the current funding component is too high.
33. Probably the most pressing issue currently facing carers who need a break from caring is the **slow recovery from Covid-19** of services for carers and the people they care for.

³ Improvement Service (2021): National Benchmarking Overview Report 2020-21, pages 18-19.
https://www.improvementservice.org.uk/data/assets/pdf_file/0018/31338/Benchmarking-Overview-Report-2020-21-FINAL.pdf

⁴ <https://socialworkscotland.org/wp-content/uploads/2022/01/SWS-NCS-Supplementary-Response-FINANCE.pdf>

⁵ STUC (June 2022): *Profiting from care: Why Scotland can’t afford privatised social care*.
<https://stuc.org.uk/files/Reports/Profiting-from-Care-Report.pdf>

⁶ To be published early in September 2022: at:

Funding is needed to restore services for all people with assessed care needs, including day care which appears among the hardest hit, and also for specific short breaks and respite services, for both adults and young carers, that have not restarted.

34. **Investing in support infrastructure for carers.** The Feeley report recognised that carers need “regular access to quality respite provision” and that required developing “a range of options for respite and short breaks”. Simply adding to the funding for Short Breaks Funds also does not itself address the need to invest in the support infrastructure. A programme of work is needed to establish which areas need investment in additional carers centres in towns currently without them, and in more staffing to meet the expected additional demand.
35. **No additional assessments costs are included in the FM calculations,** because it is assumed that the proportions of carers who need such assessments is the same as those assumed for the Carer Act funding between 2018-19 and 2022-23, which included assessment costs. This fails to take account of an increase in the numbers of carers since the 2015 Carer Act FM, and that the original proportions were based on carer satisfaction data which has fallen 10 percentage points since then. Moreover, a new right to breaks for carers assessed with unmet needs for a break from caring, is likely to increase demand for assessment.
36. The need of replacement care is identified and costed at 73% for assessed adults with unmet needs for personalised breaks. But **no replacement care** is identified for young carers with personalised assessments under the Carers Act, or for any carers accessing Easy Access Breaks. This possible oversight seems implausible, and should be **reviewed**, together with other issues in the Funding Model that Social Work Scotland has identified.
37. The NCS funding for personalised carers breaks is phased over 10 years from notional commencement in 2025-26 to a fully implemented steady state in 2034-35. The phasing is based on current assessment data that is flawed; alternative data from the two-yearly Health and Care Experience Survey for 2019 and 2021 gives higher figures which would suggest a **phasing of 5 years**. The key role that supporting unpaid carers has in prevention also indicates that a long phasing over 10 years is undesirable.
38. Finally, the Funding Model produces gross costs from which current funding should be deducted. However, the estimate used (**£149 million**) is partly based on questionable imputed expenditure estimates for the current 3% of carers who report receiving a break. We do not know what the actual expenditure is on breaks and replacement care provision was deleted by the Scottish Government from the LFR3 financial returns from councils for 2013-14 onwards. In any event, it is funding we need to deduct, not spend. While not perfect, the Grant Aided Expenditure data for “carer support and respite services” provides an indication of the level of funding going into the 2022-23 local government finance settlement. Our fuller paper explains the make-up of the GAE figure of **£92 million**, which we believe is the most legitimate figure for current funding:

GAE items for carer support and respite services

	£000s
Formerly Frozen GAE, historic levels for carer support and respite	24,125
Redetermination, mentioned in Green Book 2020-21 Notes	2,820
Total for Carers Act implementation by local authorities	83,500
Less Carers Act funding for Assessment (ASCPs and YCSs)	-20,390
Less Carers Act funding for Information & Advice	-3,040
Scottish Budget 2022-23 transfer from H&SC to LG for unpaid carers	5,000
Total GAE for carer support and respite services	92,015

39. In conclusion, Social Work Scotland believes that the carer section of the NCS Financial Memorandum requires urgent inter-agency review to address the issues raised here, and in more detail in the fuller analysis we have undertaken.

CONCLUSION

40. The same conclusion applies to the National Care Service Financial Memorandum as whole. It is simply not up to the task of supporting a major piece of legislation. The Scottish Parliament, civil society, people who use social work and social care services, unpaid carers, family members, people who working the care system in Scotland, and the general public need to be able to see more robust statements of the costs of the National Care Service, including the essential investments in social care services that are urgently needed. What is included in the Financial Memorandum is alarming: up to £500 millions of additional organisations costs by 2026-27, without the whole picture necessary for the affordability of the National Care Service to be established, and any necessary priorities or alternatives to be discussed.

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