Appendix 1

South Lanarkshire Council welcomes the opportunity to respond to the Scottish Government's Consultation on the National Care Service (NCS) although we would express disappointment that COSLA was not involved in the development of the proposals prior to the publication of the document given the current statutory duties held by councils and the significance of the emerging proposals. We would also highlight that the period of consultation is extremely short given the scale of implications for social work/ care service users, carers, staff in the sector, provider organisations and for local government as a whole. It is also being carried out at a time of unprecedented pressure on social/ work services which limits the available capacity to consider and respond fully to such significant proposals and whilst our attention should be on rebuilding the capacity of social work/ care services and on the recovery from the impact of the pandemic.

In relation to the format of the consultation template, we feel the largely tick box format is unduly restrictive and we have therefore structured our response thematically to reflect the sections within the consultation document given the importance of this topic. In effect, many of the questions are phrased in such a way as to present a choice between retaining the current system – with the negative elements which have been articulated so clearly by the IRASC report – or opt for improved outcomes which will be delivered by the single model of NCS as outlined in the consultation document. Clearly, expressing support for the improved outcomes through this format cannot be taken as preference for the single NCS model presented.

The consultation document is unclear in parts and we are concerned that the level of detail and evidence that would underpin such significant proposals has not yet been made available. We would welcome through COSLA further dialogue to constructively discuss this consultation and how local government can support the overarching intention to improve the quality and experience of accessing social work/ care supports within a wider health and social care system. In this response we highlight areas where there would be added value in taking a national approach and which could comprise an NCS.

Structure of our response
As noted above our response is structured thematically, taking into account the sections within the consultation document.

The structure of our response is as follows.

- **Section 1: Introductory remarks and context.** Here we set out a number of key contextual factors we believe are crucial to a proper understanding of the issues raised by the NCS proposals. We contend that these contextual considerations need to be understood – and ultimately addressed – and it concerns us that there is a lack of explicit recognition of these underlying factors.
- **Section 2: Uncertainties and ambiguities**. We highlight numerous areas of ambiguity or lack of detail within the proposals as set out in the

consultation document. In our view these limit the scope for meaningful discussion at this stage. These uncertainties are reiterated as appropriate in the detailed considerations which are elaborated throughout section 3 below.

- **Section 3: Issues, risks and challenges.** Here we look in detail at the specific themes within the consultation document, considering the areas listed below in turn. Our aim is to comment constructively on each topic, and we necessarily go into some detail where the consultation proposals allow. In many instances however there is insufficient clarity at this point in time to fully assess the implications and potential consequences/risks etc of the proposals, and we highlight these within each topic.

  3a – Improving care for people
  3b – Charging for Care
  3c – Complaints and putting things right
  3d – National Care Service/Scope
  3e – Community Health and Social Care Boards
  3f – Commissioning of services
  3g – Regulation
  3h – Valuing people who work in social care
  3i – Data Sharing, Analysis and Policy Development
  3j – Governance and Democratic Accountability

- **Section 4: Scoping the NCS.** Drawing upon section 3 above, we consider what services and remits organised as part of a National Care Service would add value. These areas are ones where there is a role for a national approach on a number of key proposals in the consultation document. This section therefore seeks to define what we believe would be an appropriate scope for the NCS.
- **Section 5: Concluding remarks and priorities for further work.** We summarise the key points within the consultation response and make recommendations on how to move forward to deliver the improvements in outcomes identified in the IRASC report. South Lanarkshire Council confirms its commitment to work constructively with the Scottish Government on these areas.

1. Introductory remarks and context

1.1. South Lanarkshire Council recognises many of the frustrations with the current system highlighted in the IRASC report through the use of lived experience and first hand testimony. Equally, we support many of the aspirations and outcomes highlighted by the review and we believe there is a significant opportunity to build on the strengths of the local authority social work/ care systems. We would however encourage a better understanding of the context that has created the current frustrations as this is central to the development of proposals for improvement.

1.2. Local authority social work managers and staff have worked within a sector that has experienced chronic underfunding for decades but made more challenging since the financial downturn in 2008 and subsequent period of

austerity. Pressure on budgets and staffing has required care services to be rationed through the use of a prioritisation of need framework – in reality that pressure has meant only support for critical and substantial need and very limited capacity to focus on lower tier preventative support. Increasingly support for service users and carers has been focussed at higher end needs or at points of crisis. The long-term underfunding of the sector has diverted far too much management time and capacity away from service development towards delivering savings programmes in line with declining available budget, short term funding settlements and increased ring fencing.

1.3. Equally, the benefits of preventative and anticipatory support are not new or unrecognised – Prevention is one of the 4 Principles of the Christie Review which remain relevant 10 years after its publication. However, challenges remain in moving resources within the wider health and social care system away from acute and primary health care settings to support community based preventative interventions. The Audit Scotland "Local Government Overview Report" in 2020 verified this view, noting, "*There is still limited evidence to suggest any significant shift in spending from health to social care*". Many of the drivers of demand for social care services sit within the public health and general healthcare systems yet, despite the language of "whole system" being used widely, lower tier social care is less often considered and the predominant focus over the last several decades has been on the efficiency of higher tier services as they relate to the functioning of acute services and associated measures such as delayed discharges.

1.4. These context factors are the true cause of the issues faced by social work/ care service users, carers and staff not a lack of local leadership as inaccurately suggested by the consultation document. Audit Scotland in its Health and Social Care Update Report in 2018 noted, "*Financial pressures across health and care services make it difficult for Integration Authorities to achieve meaningful change*". Whilst the report recognises a level of achievement, it notes "*These improvements are welcome and show that integration can work within the current legislative framework, but Integration Authorities are operating in an extremely challenging environment…… financial planning is not integrated, long term or focused on providing the best outcomes for people who need support*". The Audit Scotland Local Government Financial Overview 2019/20 underlines the challenges: "*In IJBs… , the financial pressures are significant, with many needing additional funding from councils and health board partners to break-even in 2019/20*." (p.3)

1.5. These contextual factors replicate the broader situation in the UK as a whole, as evidenced by the recent LSE-Lancet Commission on the future of the NHS which notes that *"The response to COVID-19 brings to attention some of the chronic weaknesses… of the UK's health and care systems…an absence of transparency, poor integration between health and social care, chronic underfunding of social care, a fragmented and disempowered public health service, ongoing staffing shortfalls, and challenges in getting data to flow in real time"*. As a result the UK has seen: *lower spending on health/public health than other high-income countries over 3 decades; decreasing real-*

terms spending on social care and lower spending than other countries; and a lack of transparency about resource allocation at the local level. The consultation fails to recognise the contribution of non direct and social care services to promoting good public health and addressing inequalities and poverty both of which are key determinants on the health and wellbeing of the population. It is pertinent to this consultation to note this broad context and also to observe that these issues are longstanding, pervasive, systemic and hugely complex.

1.6. In short, the consultation fails to give due weight to the degree to which these contextual factors have contributed to the system that manifests itself in the lived experience testimony outlined in the IRASC. It is therefore hugely disappointing to see that the only solution put forward to address these failures is the introduction of a National Care Service rather than support for local government and HSCPs which we believe can deliver the outcomes that all stakeholders want to see.

1.7. The consultation document provides no information on modelling of volume or costs of demand for the various options presented nor indicates how the additional investment will be funded on a recurring basis. The IRASC report suggested an indicative £0.66bn requirement per annum but is acknowledged as not covering all elements of the 53 recommendations and is based on a rudimentary uprating of historic service volume data as a proxy for the costs of unmet need. COSLA has suggested a figure well in excess of £1.2bn per annum albeit with a clear acknowledgment that considerable detailed work will be needed to confirm the adequacy of this sum and what level of entitlements would be needed. The potential investment is not only a game changer but a necessity, the Fraser of Allander Institute recently commented “an underfunded national care service is unlikely to be any better than the system it seeks to replace”.

1.8. The aspiration for social workers and other professionals to be able to focus on the rights of individuals “without being hampered” by considerations of eligibility and cost are laudable aspirations but there is not an infinite level of investment that can be made to support service users and carers. We are concerned at the presentation of some of the questions within the consultation which does not address the issue of the lack of demand modelling, public expectation and affordability. As such the document reads as an often inaccurate critique of the current system flaws without context and the presentation of an NCS as the only solution with promises that it will deliver all that anyone wants. Simply relocating functions alone seems unlikely to drive significant improvement.

1.9. Ultimately however resources, even if significant investment is made, are finite and some eligibility criteria or threshold will need to be applied to maintain a real world level of budgetary control. So, whilst the document suggests moving away from professional needs assessment towards richer shared discussions with service users and carers about entitlements and what would improve their lives, the lines may be redrawn to reflect the greater investment but everyone’s ask is unlikely to be affordable.

1.10. At its simplest terms, legislative or structural change is not necessary to provide that investment in social worker capacity which enables the time and space for life actualising conversations and care planning or to substantially increase access to care and support. Arguably, given the work over the last 6 years to develop mature partnership relationships within the current governance model, the implementation of service redesign will be quicker, less disruptive and more effective without further structural upheaval. Put bluntly – give local government the right tools and we can do the job!

1.11. The central premise of the consultation document is to establish an all embracing National Care Service with constituent Community Health and Social Care Boards (CHSCBs) – a decision on which would be taken before the detailed work to design the new care entitlements and support models; access arrangements; the financial framework that will support the new investment and a range of other fundamental assessments. To take a decision on the scale of structural change before these fundamental developments relating to function are completed and the full implications are understood is in our view premature and potentially unnecessary.

1.12 There is however unquestionably a role for a national approach (whether expressed as an NCS or otherwise) on a number of key proposals in the consultation document that would substantively improve the quality of experience for care service users, carers and staff. This national approach would work with local authorities; health boards, Health and Social Care Partnerships; commissioned providers; professional bodies; service users; carers organisations and other stakeholders. The scope of an NCS that would add value to the system is outlined in section 4 below.

2. Uncertainties and ambiguities

2.1. In addition to the concerns around the absence of context, the proposals as shown in the consultation document leave a number of uncertainties in terms of intent, these include the following themes:

A) <u>Model of Care/ Services and Budgetary Proposals</u>

- The absence of any detailed modelling of demand volumes for the various service options indicated in the consultation document (see section 1.7).
- There is no detail on the thresholds or eligibility criteria for the different scenarios between low bureaucracy universal support offers (entitlement) and more complex care planning. Given that resources must ultimately be finite, there is no clarity on how this would be assessed and the criteria used to determine who gets what level of services.
- As a consequence, there is an absence of any detailed costing of the proposed service offer to indicate the quantum of additional investment required and an absence of any detail on how the finance to meet this investment will be raised.

- Despite reference to whole system approaches, there is no clarity on why acute services and public health services remain outwith scope for whole system improvement.
- There is little reference to the role of public health, health education and the development of personal responsibility for managing health and wellbeing or social prescribing to de-medicalise elements of health care.
- Similarly there is little reference to the significant work on service redesign initiatives including the work on rescheduling urgent care (RUC); technology enabled care (TEC) and intensive rehabilitation.
- There is no detail on a medium to longer term financial strategy to ensure that the required budgetary provision maintains pace with demand for the new service offers.
- There is no detail in relation to the relationship with the local government grant settlement – noting that social care is not fully funded through the settlement indicators and that local authorities, reflecting local prioritisation decisions, have taken spend decisions to subsidise this area of service. There is no reference to modelling the scale of this subsidy or clarity on how the subsidy is incorporated into the financial modelling for the overall proposals in the document.
- There is no reference to the VAT status of the new CHSCBs or indications of discussions with HMRC that would give comfort on this issue. This is of particular significance given the indicated commissioning role for CHSCBs.
- There is no detail on proposed financial arrangements for the NCS relating to borrowing; ability to hold reserves; audit; financial regulations; etc.

B) Workforce

- There are contradictions within the consultation document in terms of the employment status of local government social work and social care employees. There is no detail or clarity in relation to the application of TUPE; pension liabilities; proposed process for harmonisation of terms and conditions; equal pay/ value impacts on pay and grading models; or any other contractual matters.
- There is a lack of clarity on proposals for commissioned social care staff and how parity with NCS staff will be maintained.

C) NCS Scope

- There is a lack of clarity around the rationale for the transfer of legal accountabilities – the absence of even an outline business case makes it impossible to understand why only a single option based on the transfer of accountability from local government is presented as part of the consultation.
- There is no explicit rationale other than reference to standardisation/ consistency given for the proposed expansion of the NCS to incorporate children and families social work, community justice social work or ADPs. There is lack of proper consideration of any anticipated benefits or disbenefits from this expansion or how the proposals would impact on

other public services such as housing and homelessness; education and early years; advice services; and many others.

- There is little reference to the impact on the delivery of the Promise by 2030 arising from the proposed incorporation into an NCS.
- There is no detailed consideration of the impact of the proposals on the integrated public protection agenda and governance. In specific terms there is no reference to the statutory role of Public Protection Chief Officer Groups, the duties of local authority Chief Executives or Chief Social Work Officers or the range of legislative change and division of statutory duties arising from these proposals.

D) Support Services

- There is no reference to proposals for the contracting for support services currently provided by local authorities including facilities services (catering, cleaning, building maintenance, etc); fleet services (staff vehicles; service user transport, etc); ICT (telephony; infrastructure; systems maintenance and development; desktop services, etc); legal services; Procurement (Council/ Scotland Excel contracts); HR and payroll; Health and Safety; Corporate Training; Finance and Creditors; Internal Audit; etc. Whether these services are to be competitively tendered or delivered directly by CHSCBs rather than commissioned from councils directly are material questions that determine levels of risk to Council and the scope for TUPE arrangements to apply
- There is no detail on the financial arrangements for the above services which contribute around one third of local authority central services budgets or any budgetary proposals on how the potential gap in local authority funding that doesn't currently exist would be filled.

E) Assets

- There is no detail regarding proposals for the purchase or lease of local authority assets used for the delivery of social work/ care services by an NCS. This extends to buildings; fleet; ICT; equipment or other assets; or recognition that local authorities will have debt that needs to be serviced in respect of those assets.
- There is no detail of proposals in relation to capital accounting to reflect the above impacts.
- There is no detail on proposals to transfer or assign existing contractual obligations currently held by local authorities.

F) Other Areas

- There is no reference to the Local Governance Review nor explicit consideration of how these proposals fit with the emerging themes around localism and subsidiarity expressed as part of the extensive public consultation on the Review.
- There is no inclusion of a statutory Islands Impact Assessment; Equalities Impact Assessment; Environmental Impact Assessment; or Social Impact

Assessment. There is a lack of clarity on how those impact assessments were considered in the drafting of the proposals within the consultation document.

- As such there is little reference to the delivery of services to communities with specific cultural needs – including different ethnic or religious groupings; gypsy travellers; stakeholders with protected characteristics; etc.
- There is no detailed consideration of the impact of the proposals on local, regional or national resilience arrangements. In the event of civil emergencies, generally the central presence is the local authority to support the immediate response and to lead on the recovery phases which very often includes the care for people services. Reducing the capacity of local government exposes civil contingencies arrangements to new and significant risks.

3. Consultation themes

3.1. In this section we highlight that, for many of the issues identified by the IRASC, the NCS as proposed in the consultation is neither a necessary nor proportionate response. We strongly believe that many of the improvements required could be achieved through alternative means, without the disruption that the creation of the NCS would cause. Moreover we believe improvements in many cases could be delivered more quickly, more effectively, and ultimately at lower cost through the proper resourcing and effective utilisation of existing structures.

3.2. Over and above these concerns about cost, efficiency and effectiveness, we have significant doubts over the lack of congruence between the NCS proposals and policy aspirations recognising the crucial role of local choice, local governance and local discretion in democratic society. In this respect we believe the creation of the NCS (with the scope and powers proposed in the consultation document) is potentially a harmful course of action with the potential to undermine progress and in fact add complexity rather than bring transparency and simplification.

3.3. Finally, there are several crucial areas where we have concerns over the presumption – in our view unfounded and unevidenced – that the NCS will be able to deliver a step-change in social care through, at least in part, the development of new mechanisms, protocols, guidance and systems. In the absence of detail as to what these various approaches will be, it is a leap of faith to assume that legislative/ structural reform alone will provide a solution. Undoubtedly there is work to be done in these areas, however it is our view that these improvements are required regardless of structures and accountability arrangements and that the benefits to be realised can be delivered quicker, more efficiently and effectively without disruptive structural upheaval.

a: Improving care for people

3.4. The document highlights the impact of the lack of sustainable and adequate investment on social work/ social care as a key inhibitor to the scaling up of

good practice. For decades the sector has consistently experienced time limited short term or initiative based funding for change and improvement initiatives which has mitigated against the application of system learning across the country. We also recognise the commentary on the cluttered nature of the landscape for improvement given the number of agencies and interests that are active in health and social care and would go further to highlight the often competitive environment for organisations seeking to secure commissions and funding to support this work/ their organisations.

3.5. We would agree that a National Care Service formed within the scope as outlined in section 4 of this response could provide a valuable coordination for improvement work in the sector. The use of improvement science approaches provide a helpful structure and discipline however needs to be proportionate and focussed. Priority should be given to scaling up effective change which would build on existing work on transformational and service redesign programmes such as Technology Enabled Care; Rescheduling Urgent Care; the use of social prescribing; the application of realistic medicine and personal responsibility for managing health and wellbeing. On this latter point, there needs to be national political leadership in relation to public messaging and moving public expectations in relation to service redesign.

3.6. The improvement work however needs to be integrated on a whole system basis and this means across public health, acute, primary care, community health and social work/ care. This should lead to a rationalisation of a number of existing public sector improvement bodies into the NCS which, although challenging to deliver, should provide the coordination and focus sought.

3.7. Given later comments (see section 3g) regarding1 regulatory bodies integration within the NCS – the feedback loop on scrutiny and inspection findings helping to set the improvement agenda will be an integral part of this system redesign.

3.8. There will be challenges in rationalising the number of health and social care improvement agencies and integrating them into the NCS. There may also be some push back on the loss of focus on certain areas as there is no longer a body specifically looking at those specific areas of work. The proposals do not necessarily limit the creativity and bottom up generation of improvement initiatives within teams and services however they would bring greater focus and structure to system change at scale leading to better use of resources and support for improvement.

3.9. Service users/ carers should have multiple routes to access information and advice as to their potential entitlements and how to access them or to arrange for a more detailed discussion about their care needs and subsequent care planning. As such, clear and helpful resources should be available to guide that advice however, critically, there should be a single route to refer/signpost to. Our view is that should remain as the local authority social work services – these are best placed, with appropriate resourcing, to engage with the service user/ carer in relation to their needs and with other relevant partners in relation to supporting those needs within local communities.

3.10. As indicated elsewhere in this response, to enable social workers to engage properly in these discussions, to support creative care planning and to support self direction more fully will require a substantial reduction in caseload. This scale of investment will be required regardless of what model arises from this consultation and it is our contention that these remain most effectively retained as local authority functions and fully connected not only with the wider health and social care system but also the other complementary services provided by local authorities such as housing, education, environmental health, community development and sports and leisure activities.

3.11. If the intention is to remove the language of needs assessment and to significantly increase the resource available to social work teams to provide easy access to preventative and early intervention support and to tailor care plans for more complex needs, this is a fundamental game changer for social workers. The current approach and the negative experiences of those subject to needs assessment is a product of the need for local authority staff to ration care to meet the increasingly significant restricted available resource. There is not a professional social worker, social carer or social work manager in the country who would wish to restrict the care and support for their service users/ carers unnecessarily or who has not been significantly affected by working within such a restricted resource constraint. All local authority social work and social care services and those of our partners would welcome the opportunity to re-cast the system by ensuring that manageable levels of caseload that allow for proper person centred discussions, early support and regular review. We strongly believe, however, that this can be achieved faster, more effectively and without significant structural reform and energies would be better focussed on improving quality, choice and accessibility.

3.12. The options above are not mutually exclusive and represent options for service users and carers according to their specific needs. In general, where a higher level of support is required beyond accessing a universal entitlement and where a detailed care plan is developed jointly with service users/carers, it makes sense for a single lead professional to coordinate the care and support for an individual. This fulfils the one door approach to the wider system although it will be important in statute to clarify the powers of the lead professional to ensure they have sufficient ability to hold all parts of the wider health and social care system to account in relation to the care and support provided.

3.13. The threshold at which a lead professional needs to be identified relates to a number of other considerations within the consultation document. The balance of the universal basic entitlement for service users/ carers with the more detailed care and support package is material to this consideration. The intent should be to make access to preventative or early intervention services as easy as possible, however it will be important to ensure all service users/ carers are encouraged to regularly review their circumstances and be aware of who to contact should these change and additional supports be needed to sustain and maximise their independence/ quality of life.

3.14. As we have noted elsewhere, this is not an unlimited additional resource therefore decisions will still need to be taken in relation to the "offer" – i.e. clear and consistent advice on what (and whether tiered) the universal entitlement comprises and the balance with the support offered for more complex cases. Regardless of language, there will need to be clarity on eligibility criteria and the basis on which decisions regarding levels of support will be made. In short, these criteria will underpin who gets what level of care and support and transparency on this issue is crucial if there is to be informed professional and public debate going forward.

3.15. It will however be important that service users/ carers have access to consistently high quality advocacy support where required. This could be through local community/ voluntary organisations however to achieve that consistent standard, we would recommend the development of appropriate accreditation for advocates supported by high quality training and development with regular refresh. One cautionary note however is that our future vision should not be of a world where citizens are increasingly dependent on services and that they can only be heard through an advocate.

3.16. The model to be adopted should reflect a deeper discussion about life actualisation with service users/ carers and of the types of support that would improve their quality of life and meet their care needs. As such, there is an opportunity to co-produce the care plan between service users/ carers and relevant professionals with regular formalised reviews supported by a Lead Professional. This will need to have some resource guidelines to aid practitioners as noted elsewhere in this document.

3.17. The idea of a universal entitlement requires a definition of what would be the extent of the offer before an informed response to this consultation can be relied upon. A universal offer to every carer would need to be tiered to reflect different circumstances albeit ensuring ease of access and responsiveness to support preventative and early intervention. The offers will also support the sustainability of care by family carers over a longer period and significantly improve the quality of their lives beyond their care roles. However that cannot be at the cost of more personalised support plans that will be needed to support those with higher end needs. Through the development of the higher end care plans, the scale of the support can be defined and detailed modelling is required to develop related financial modelling.

3.18. If the model is designed with clarity around entitlements and how the service user/ carer accesses more detailed conversations with a lead professional should their needs change, the advice and information role including a light touch conversation, could be supported through support workers or community/ voluntary organisations.

3.19. GIRFE would provide an underpinning practice model and consistency of language to deliver similar benefits as derived from the GIRFEC model in children's services. We would also recommend the development of an adult

version of the SHANARRI wellbeing tool to assist with the discussions regarding wellbeing and improvement and subsequent care planning.

3.20. Further consideration needs to be given to the fundamental points raised above and a clear articulation is required of: what the process would look like, what the demand volumes and financial modelling indicates; the resource envelope available which in turn will determine the scale of the entitlements offers that can be supported; the extent of the investment in professional social work capacity to allow for richer, more personalised care planning to take place; the access routes for universal lower level entitlements; and a range of other more detailed planning arrangements. This work needs to be done and re-presented in a consultation format before any reliance can be placed on the responses received.

3.21. The case for using legislation is unclear and the requirement as specified by an NCS assumes that this is the structure for the planning, commissioning and operational arrangements for health and social care.

b: Charging for care

3.22. South Lanarkshire Council recognises the debate around the application of means tested charges for care services and notes the contrast with health services provided by the NHS which are predominantly free at the point of access. There has been a different history to social care services and greater flexibility provided to local authorities to determine the application of charges for services beyond the commitment to free personal care. Ultimately however the debate is to what extent the funding is raised by taxation and distributed according to need or to what extent part of those costs are charged to the consumer of services at the point of consumption and using a form of means test.

3.23. The absence within the consultation document of any detail of proposals to fund the very significant but as yet unquantified additional investment necessary to fulfil the step change in an entitlement based model makes it difficult to respond fully to this part of the consultation. Yet, this detail is absolutely critical to any proper consideration of the issue of charging. Effectively charges have helped supplement the available grant based funding and are locally determined reflecting decisions taken on levels of service and resourcing from income. The Interim Controller of Audit reported to the Accounts Commission on 3 June 2021 that "*More detailed work and engagement is required … on understanding demand and the cost of providing new models of care and how it will be funded. A clear plan and timescales are also needed quickly*". Unfortunately none of this demand modelling detail nor any detail on proposed investment or underpinning funding models is included in the consultation document

3.24. The scale of charges to invest further into social work/ care services should remain a local decision for partnerships – it is acknowledged that this may

mean a different level of service or charging regime in different partnership areas which reflects local prioritisation to reflect local circumstances.

3.25. We would agree that many of the accommodation costs noted in the consultation document are faced by most people regardless of the setting they reside in and as such it is appropriate that there is a contribution to meet these costs. That contribution is required to make this a sustainable model and ensure that available resources can be targeted to meeting personal care needs. Some of these costs would however be optional (e.g. leisure and entertainment) and there should be some personalisation in terms of charges to reflect usage rather than automatic standardisation.

3.26. As noted previously, the wider care model needs to be sustainable and, regardless of the value set for the threshold disregarded, it is necessary to seek contributions from persons towards their overall cost of residential care placement. The assessment of whether and to what extent the current thresholds should be revised, requires a separate and detailed assessment to take into account the reasonableness of residual savings and its impact on other members of a household.

c: Complaints and putting things right

3.27. Current arrangements for complaints handling for social work and social care at present are split between:

(i) local authorities (or HSCPs) operating to the model complaints handling procedure escalating to the SPSO;
(ii) the Care Inspectorate regarding care standards; and
(iii) the Scottish Social Services Council (SSSC) regarding individual registered staff professional standards.
(iv) There will also be organisation complaints procedure that individual providers will administer.
(v) Finally, there is also remedy available to aggrieved parties through the courts.

3.28. The core principle that should feature in any complaints handling procedure is that first stage resolution should be available as close to the operational level as possible to ensure the vast majority of complaints can be resolved quickly and appropriately. This should be supported by a second stage complaints level to ensure appropriate local oversight is given in the case of appeal or where the complaint is at a system level. It is not recognised that there has been a significant issue of dissatisfaction with either the visibility or access to the model complaints handling process (other than obviously those complainants whose complaints have not been upheld) and the SPSO provides both a gauge on the quality of complaints handling and also helpfully shares findings to aid the learning of others.

3.29. This part of the consultation would benefit from a clearer evidence base that supports the assertion that there are systemic issues with complaints handling across the various channels in relation to the volume of service provided. For

example, looking at the number of complaints received by an authority as a proportion of the hundreds of thousands of hours of care at home/ daycare/ residential care/ other care services offered; the proportion of complaints resolved at stage 1, stage 2, proportion upheld and total referred to the SPSO and also looking at service user satisfaction rates on the large scale satisfaction surveys administered by authorities at regular intervals.

3.30. Greater consistency in the collation and analysis of service user/ carer data for performance monitoring and improvement purposes is to be supported however it does not need an NCS to achieve this. The LGBF currently collates and publishes satisfaction data drawn from a question set in the Scottish Household Survey however the sample size is statistically small for any authority area and is unstratified (ie. Not representative of the population as a whole and often not targeted to those in receipt of services which limits the usefulness of the analysis and any conclusions it may be drawn from it). All authorities will survey service users on a regular basis and publish large sample satisfaction data that is more reliable and a better barometer of performance – work is however needed to standardise the survey questions/ methodology and how the data is shared and used at a local/ regional and national level.

3.31. This analysis of actual evidence would provide confirmation on whether there is a significant issue and how best to resolve it rather than based on anecdote that existing complaints systems are not effective. Further analysis of existing complaints would also reveal whether the issues faced by complainants relate to the decisions that have had to be taken to ration care due to resource availability which is at the core of the challenges faced by local authorities in the current system. We would agree that this analysis should contribute to the work of the independent inspectorate to give a fuller picture on quality and standards.

3.32. It is difficult to see how a single centralised procedure would improve the responsiveness of complaints handling. Nonetheless, the development and communication of a Charter would help communicate rights and entitlements. It is further difficult to perceive a single complaints procedure covering:

- service complaints to social work authorities/ providers;
- the functions of the independent inspectorate however framed by the proposed reforms; and
- the professional registration body again however framed by the proposals.

3.33. More emphasis should be given to improvements in issue/ conflict resolution to seek to address issues more timeously at a local level. This may be supported by proposed investment in advocacy support which may help towards resolution and mediation and assist service users/ carers assert their rights and understand decisions that affect them.

3.34. If the complaints handling procedures are working effectively, and a new Charter of Rights and Responsibilities is clearly communicated to service users/ carers, it is unclear what additional benefit there is in having a

commissioner to “champion” their rights. If there is unlawful practice, it should not need the office of a commissioner to seek remedy on their behalf.

d: National Care Service/ scope

3.35. The consultation document does not present a compelling case for the scope of the NCS outlined in the consultation document. We contest the IRASC characterisation that the key problem with the current system has been a lack of national accountability and local leadership for social care support. As indicated earlier (see paras 1.2 – 1.5), we contend that the system and its limitations has been created through the chronic underfunding of the sector over decades which has led to application of increasingly stricter needs assessments used to ration access to care to meet with available resources.

3.36. Transferring accountability to Ministers and implementing structural change to transfer services to new CHSCBs will not address the broad context within which social work and social care services operate. The Interim Controller of Audit reporting to the Accounts Commission on 3 June 2021 commented on the commitment to implement the IRASC recommendations, noting *"….but it's not clear what that would look like. And the solutions to the challenges facing social care go far beyond new structures*". We are wholly in support of necessary change which tackles the underlying causes – the underfunding and under-investment – as well as the undesirable consequences (rationing, eligibility levels, postcode lottery effects) of the issues identified by the IRASC. For example, the detailed design and resourcing of a new entitlement based model that balances preventative and early intervention work would undoubtedly provide substantial improvement however it does not require the transfer of accountability; operational responsibilities; local decision making and commissioning.

3.37. We contend that, if the proposed entitlements based model and associated investment in social work and social care services are made, the desired improvements can be delivered better, more quickly and more effectively within the existing structures without the transfer of accountabilities. This retains the connection with local responsiveness and local decision making within a broader framework of national standards which could be established by a NCS focussed on a range of nationally coordinated functions (see section 4 below).

3.38. Social work/ care managers spend such a considerable proportion of their time and capacity trying to balance the books rather than focussing on the improvement in service users/ carers quality of life and care experience. The commitment and leadership is within the profession if they are supported with the investment to deliver on the outcomes identified in the IRASC report. As noted by Audit Scotland in its 2018 report "*Top-down leadership which focuses on the goals of a single organisation does not work in the context of integration"*. It is South Lanarkshire Council's view that there is significant system design work to be developed and that any decision in relation to moving legal accountabilities and decision making away from local communities would be premature and ultimately damaging.

Place and Localism

3.39. As well as running counter to the localism agenda, this would undermine the great progress made across Scotland in empowering communities and giving effect to local priorities through locality plans and the raft of place-based approaches being developed in every partnership area. The value of this work has been illustrated clearly during the period of response to the pandemic. The enormous vitality and local mobilisation of efforts, channelled through and enabled by local agencies led by local authorities, is recognised by the latest Audit Scotland Local Government Overview report 2021: *"Throughout 2020 and beyond, the ways in which councils and communities have worked together to deliver services and support the most vulnerable has been incredible. Many communities and individuals continue to step in to provide crucial local services, empowered to do so by councils. Those local areas where partnership working was already strong and embedded were able to respond and react more quickly to the developing needs caused by Covid-19. This brought into focus the value and importance of partnership working and empowering communities to deliver services that meet very local needs."*

3.40. **I**t is essential to recognise that local government continues to be central to the shaping of place. More than any other public body, councils have responsibilities which touch every aspect of life within a local area, from the maintenance of roads, provision of education services, collection of household waste and recycling, through to leisure services and responsibility for the public realm and green space. As noted by the King's Fund in recent research on place-based partnerships: "*Most of the heavy lifting involved in integrating care and improving population health will happen…in the places where people live, work and access services, meaning place-based partnerships…will play a key role in driving forward change."* and "*It will not be possible to deliver the ambitions of integration and population health without the full involvement of local authorities in these efforts…. Whatever the outcome, it will be more critical than ever for work at place level to support genuine equal partnerships, with local government not just involved but jointly driving the agenda".*

3.41. The need for local integration, local knowledge, local reach and local relationships all point to the retention of these services within local authority control. The Local Government Improvement Service has highlighted there is a risk that this shifting of services into the NCS would fundamentally undermine the ethos of whole system, place-based, person-centred working. It would move away from the key principle that local systems, services and workforces are best placed to identify the specific needs of people and communities in their local authority area and to ensure that workforces have the knowledge, skills and resources to respond to these needs.

3.42. The high turnover of senior staff in HSCPs is reflective of the huge personal pressures placed on staff within these roles to try to meet massive increases in demand within historically inadequate and increasingly limited resourcing. Similar to the pressures on commissioning and procurement roles noted in the consultation document, these are not caused by the lack of national

accountability by Ministers nor would they be alleviated by a disruptive legislative/ structural change.

Scope

3.43. The following services should remain the statutory responsibility of local authorities – decisions on whether these services are delegated to IJBs/CHSCBs should remain locally determined to reflect the local context (geographical coverage/ existing structures and arrangements/ partnerships/ scale of services):

- Adult social work and social care services
- Children and Families social work and social care services
- Mental Health services
- Community Justice services
- Housing and homelessness services
- Leisure and Culture services
- Alcohol and drug partnerships (integrated teams and commissioning)
- Child and adult protection
- Other public protection (including partnership working in relation to gender based violence; MAPPA; MARAC; etc)

3.44. The scope of the NCS however would most valuably be focussed on the functions and services listed below. In these areas we believe significant improvements could be derived from the oversight, integration, consistency and national reach of the NCS. These are considered in more detail in section 4 of this response.

- Standards/ Assurance/ Performance Reporting and Scrutiny
- Workforce Planning/ Fair Work/ Terms and Conditions/ Training and Development
- Ethical Commissioning and Procurement (via Scotland Excel)
- Complex and Specialist Care Commissioning (via Scotland Excel)
- Improvement and Innovation
- Development of the Single Health and Social Care Record and System Integrators
- Use of Aggregate Data for System Level Planning and Policy Development

Children's Services

3.45. We would not support the mandatory inclusion of Children's Social Work and Social Care Services within an NCS as described in the consultation document. Some of the implications of doing so include:

(i) Disrupting the ongoing progress to strengthen integrated children's services planning. There is no evidence that including Children's Services in a National Care Service and the associated disruption that structural reform would cause would be of benefit to children and

young people. As a recent report from Children in Scotland, commissioned by Social Work Scotland, Healthcare Improvement Scotland and the Care Inspectorate highlighted that the answer to 'the delivery of more effective children's services is not more structural change. A period of stability is essential'.

(ii) Moving responsibility for children's services to a National Care Service disrupts and potentially undermines the effective work already underway to improve outcomes for children and young people. Through the Children and Families Collective Leadership Group (CLG), the Scottish Government and Local Government have been working with a range of stakeholders to consider what steps we can take to strengthen Children's Services as we respond to and recover from the COVID-19 pandemic.

(iii) The conclusions reached in the IRASC report underpin a wide range of improvement proposals yet the proposed inclusion of children's services was not intimated prior to the publication of the consultation document and therefore has not benefitted from the diligence of a formal review. Such a significant extension to the scope of proposals must be subject to a full review in its own right before any decision on inclusion can be reached.

(iv) Councils and our partners are committed to 'Keeping the Promise' by 2030. There is work ongoing at pace to re-evaluate and redesign services. The resources, time and focus required to incorporate children's services into a National Care Service risk derailing the work towards ensuring The Promise is kept and achieving the aspirations of the Care Review.

(v) Core to the Joint Agreement on Education Reform was the recognition across all parties that close working between schools and children's social work and care services was vital. Separating the responsibilities for the delivery of key services for children and young people may weaken the support and services provided.

(vi) Moving Children's Services to a National Care Service would mean potentially significant changes to commissioning and procurement, the implications of which are unclear at this stage.

(vii) The consultation document has significant impact for large parts of the Local Government workforce. The consultation appears to be unclear on future employer status and whether the aim is to have a single employer or whether services will be commissioned from local authorities

(viii) As stated above, significant work is already underway to ensure children's services are the best they can be with the aim improving the lives of children and families in our communities. In April 2020 in response to the Covid-19 pandemic, the Children and Families Collective Leadership Group (CLG) was established and is jointly chaired by SOLACE and Scottish Government. This group includes representatives from Local and National government and the third sector who have collectively agreed an action plan which includes family support and workforce support and development. All members of the CLG are committed to addressing and developing areas for change

within children's and family support services. The group also provides national oversight on the strategic direction of children services.

3.46. The CLG and Children's Services Planning Partnership Strategic Leads Network have agreed that the development of a Children, Young People and Families Outcomes Framework is re-started following a pause during the pandemic. This aim is to provide a national overview of wellbeing in Scotland and to highlight how we are making progress in closing the wellbeing gap as well as identifying what more needs to be done. It also responds to stakeholder feedback on revised statutory guidance (Pt 3 Children's Services Planning) which highlighted the value and benefit in supporting greater consistency across a range of local and national reporting, including annual Children's Services Planning reporting.

3.47. Proposals to remove children and families social work from local government is likely to create greater complexity than it would resolve given the much more significant relationship between the universal education services and children with social work supervision or care support than there is with healthcare. As noted elsewhere there is no compelling case to structurally or statutorily remove adult services from local government – the focus should be on generating progress by focussing on the areas of a NCS that will bring additionality and improvement. As noted above, there is a greater potential to create division and complexity by divorcing children and family services from the universal education services.

3.48. It would be helpful to receive further detail on the implications of proposals and to what extent these would differ in practice from current arrangements and relationships in relation to IJBs. This would clarify the future role of Health Boards and the proposed relationships with acute provision and public health services.

3.49. There is repeated reference to whole system planning and use of resources, it would be helpful to understand the Scottish Government's view on acute services and public health services and belief that these parts of the system would be better coordinated with an NCS model rather than the existing relationships with children and family services operated by local authorities or HSCPs where delegated. We are unaware of any evidence that supports that proposal.

3.50. There is more connection and engagement with the universal services in schools and early years education by children and families social work than there is with adult services. Many of these are embedded in integrated education and children's services structures with local authorities. The net benefits of removing children and families social work services from local authorities appear even less clear than those indicated for adult social work. If the statement in the consultation document that this would be overcome by strengthening the links with education and early years holds true, the same could be said for leaving the function where it is and strengthen the links with adult services. Similar arguments can be made for the proposals for community justice services and the close links with other council services.

3.51. Not all HSCPs currently deliver children's services, and we are not aware of any significant systemic failings being reported in areas where the HSCP delivers adult social care and the council delivers children's social care. Where it works well, there is a team around a child and there are mature GIRFEC processes embedded in each local authority area.

3.52. We would also stress that integrated children's services plans have not been given the time necessary to see long-term changes in support and outcomes for children and young people. Constant change makes it harder to understand what works and scale positive improvements.

Justice Social Work

3.53. We would wholly agree with the view expressed in the consultation document that "transferring the relevant statutory responsibilities and revising highly complex funding and delivery arrangements whilst ensuring partnership working and service provision is not disrupted…….would require significant time and resources". To go further we believe this statement is a recognition that applies equally to the entire proposal to remove social work and social care services away from local government and entirely makes the case for not doing so. Justice Services are a key element of the public protection arrangements in each partnership area and are integrated with a wider range of partnership service areas beyond health and social work/ care. A simple illustration of the multi disciplinary nature of this work is demonstrated in the highly effective MAPPA arrangements reporting to the Public Protection Chief Officer Groups.

3.54. Justice Services along with other partner contributions has led to the significant improvements in crime and re-offending rates in Scotland – these need to built upon with further improvements in tackling disadvantage and poverty that most often accompany involvement in the justice system. This focus does need to be adequately resourced however it does not require the transfer of legal accountability for justice services from local authority control.

3.55. As a related point, we would highlight there are very few references to domestic abuse and gender-based violence (GBV) in the consultation, despite research repeatedly showing clear links to being affected by these issues and

needing support from alcohol and drug services, community justice services, children's services etc. Moving some of the parts of this system into an NCS risks creating new barriers to current partnership activity and relationships. This point should be read in conjunction with the ADP and wider public protection comments elsewhere in this response.

Alcohol and Drug Services

3.56. People with alcohol or drug issues most often face a range of complex and interlinked issues that span a broader spectrum than health and social care. The arguments set out in the consultation document reflect a far too narrow presentation of the issues and supporting service users and their families through an acute treatment phase and onto often a lifelong recovery journey requires a multi disciplinary approach that is constructed around the individual and their specific needs. Very often this involves housing/ homelessness services; employability services; education; debt advice; justice services; and many more that predominantly sit within local authorities and the third sector.

3.57. The business case for the transfer of Alcohol and Drug Partnerships into a NCS is unclear and as highlighted above there is a further impact on the wider public protection agenda. This proposal merits further and detailed consideration through an independent review in its own right.

3.58. This proposal is however linked to the wider impact of the as yet unquantified investment in social work and social care services which we welcome as an opportunity to co-design with relevant stakeholders more preventative and trauma informed recovery oriented support services that are targeted to the whole families/ households.

Mental Health Services

3.59. The consultation also proposes bringing some elements of mental health service provision into the NCS and is seeking feedback on which should be considered. SOLACE and COSLA officers have been engaging with mental health stakeholders including ADES, Third Sector providers, The Royal College of Psychiatrists, CAHMS, IJBS, Police Scotland as well as those delivering mental health services within local authorities. There is a broad concern that the consultation is too vague to provide a well-informed response, but early indications are that organisations have identified a risk that the needs of children will not be a priority and that there is a lack of appetite for the scale of structural reform to mental health services the consultation outlines. There is a recognition that there are issues to be addressed but that these would potentially be better dealt with through frameworks and relational approaches rather than structural reform which is a common theme within this wider response. There is also an interest in shared Standards of Care in relation to adult secondary mental health care services subject to the ongoing engagement of local government in their development.

3.60. We would recommend further detailed engagement on the inclusion of mental health services and related implications should proposals be formalised for their inclusion within an NCS.

National Social Work Agency

3.61. The consultation document is unclear in relation to the relationship between its perceived role of a Social Work Agency (SWA) and the current role of the registration body for social workers and social care professionals (SSSC). There is also no reference to the role of the professional representative body – Social Work Scotland (SWS). As with similar professional bodies in the NHS like the Royal College of Nursing which is distinct from the Nursing and Midwifery Council as the registering body, SWS will represent the profession however the registration of practitioners is separate from the SSSC. SWS is not a public body either directed or funded by central or local government – it is a membership led organisation.

3.62. The drivers for a SWA appear to be "professional oversight and professional development/ education" and workforce planning. Individual practitioner performance is a matter for the respective employers however potential breaches of registration standards are referred to SSSC for consideration and, if founded, sanction. We are unaware of any significant concerns raised in relation to this process however given our comments elsewhere on the potential helpful remit for a National Care Service (see section 4), the registration function of the SSSC and a national level consideration of professional development related to that registration could be discharged through that reform. One feature that requires due consideration however is the independence of the registration body from the functions of an employer which further emphasises the concerns about transferring legal accountabilities and staff from local government. We have also positively commented on national level workforce planning and connection with the commissioning of further and higher education course places being part of a revised remit for an NCS.

3.63. During the pandemic period, we have also seen the benefit of multi disciplinary oversight of the care home sector (involving Directors of Public Health, CSWO's and Directors of Nursing) however the matter of governance and oversight would benefit from some further detailed consideration to ensure arrangements are sustainable in the longer term (non pandemic) and there is a clarity of respective functions including those of registered care service managers and the Inspectorate. This will also re-articulate the respective roles governing health related clinical standards and those related to care/ welfare, risk and protection.

e: Community Health and Social Care Boards

3.64. The proposals around the creation of Community Health and Social Care Boards (CHSCBs) leave a range of uncertainties in terms of intent. There are apparent contradictions between this section and other sections in the consultation document. Until these are clarified it is difficult to evaluate the proposals as they stand.

3.65. The consultation however appears to be critical of different local authority areas adopting different integration arrangements. We would emphasise the need to recognise the importance of local arrangements being put in place which take into account the differing needs and circumstances of local areas, and what will likely work best for the people living in those areas. All bar one HSCP has chosen the body corporate model with a single partnership adopting a lead agency model that best supports their local and unique geography and context. Similarly different partnerships have chosen the delegation of services that best suits their local context and service arrangements. To enforce standardisation as a principle without sufficient regard to these local contexts or indeed the implications of doing so is to ignore the unique character, assets and needs of Scotland's communities.

f: Commissioning of services

3.66. The impact of the financial context on the commissioning and procurement of care services is similar to that expressed in relation to needs assessment and eligibility. The IRASC report noted that budget constraints and a focus on price has often led to more attention upon price than quality or standards, encouraging 'competition not collaboration'. This past approach to commissioning and procurement reflecting the focus on price has had the effect on terms and conditions and fair work principles outlined in the IRASC. With a different financial envelope that supports standardised terms and conditions and protections, this will enable procurement bodies to rebalance tendering practices to give effect to the desired outcomes. The current practices are therefore a reflection of the financial context not a wilful disregard for ethical commissioning as local authorities have had to seek best value in procurement within an inadequate financial envelope.

3.67. Scotland Excel has been undertaking the lead role in establishing and managing national social care contracts for over 10 years. With a dedicated social care section and drawing upon extensive experience in commissioning at a national level, Scotland Excel has both the skills and knowledge to offer expert stakeholder engagement and collaboration across a complex stakeholder group. Utilising this existing skill and experience will drive a better result in relation to improvement work in the sector than if this function is recreated in another organisation without this direct experience.

3.68. With the right skills and experience and acting for a properly resourced sector, Scotland Excel is well positioned to undertake the lead role in national social care commissioning and drive improvement in commissioning practice both

locally and nationally as well as driving improvement in social care policy more widely. Delivered well, social care procurement and commissioning activity can help implement policy change and drive social value.

3.69. Scotland Excel have worked intensively with commissioning HSCPs and provider organisations on a range of specialist frameworks including the National Care Home Contract; Secure Care; Foster Care and Care at Home. In undertaking these detailed negotiations, Scotland Excel have developed advanced products such as the Cost of Care Calculators and modelling of appropriate profit levels for independent providers. There is no business case for these functions transferring into a new NCS body where the specialist knowledge, products; experience and relationships would need to be built from scratch.

3.70. The lead responsibility for the development of a Structure of Standards and Processes should sit with Scotland Excel who have the sector knowledge, relationships and understanding to quickly move in relation to this proposal. This should be done with local authorities/ HSCPs and with colleagues in the Scottish Government however it needs to be undertaken by an agency that understands the sector.

3.71. The consultation proposes that the NCS will be responsible 'for the commissioning, procurement and contract management of national contracts and framework agreements for complex and specialist services.' There is no detail provided on the balance between local and national commissioning and what 'overseeing' local commissioning would mean in practice. There is little doubt that if the balance is too focussed towards national commissioning, there would be undesirable implications for local flexibility in procuring services, with impacts upon local employability and third sector local provision. This undermines one of the key levers available to local authorities as anchor organisations to influence and support local economies through targeted procurement spend.

g: Regulation

3.72. South Lanarkshire Council would support the core principles set out within the consultation document in principle. Scrutiny and regulation in social work/ care relates to the overarching governance of risk. The consequences for a provider going into administration or taking a decision to withdraw from the market can be as significant as the maintenance of poor care standards and requires the same level of consideration. Often the two issues can go hand in hand and each can act as a signal of the other.

3.73. It would be appropriate for the market oversight function to be exercised through collaboration with partners and stakeholders who can provide appropriate local knowledge and expertise, such as local authorities and Scotland Excel. This collaboration would extend to market research and analysis as well as local monitoring and intelligence.

3.74. The oversight at a national level can also help share insight and intelligence of chain operators where similar issues are arising within the company and again can act as a signal to prompt consideration at other registered sites. Single site inspections may not provide that overview and mitigate against early intervention.

3.75. We would agree that the professional registration body should be empowered to enforce any finding and recommendation in relation to a registered person in a similar fashion to the powers to enforce with registered providers exercise by the independent inspectorate. This can include the withdrawal of registration on a temporary or permanent basis. In doing so, the registration body should have a right to defined information from other bodies to inform any investigation – the defined information should be clearly stated in statutory guidance.

3.76. We would agree it should be a requirement for the any stakeholder to refer registered staff where they have sufficient grounds raising concerns over their fitness to practice. This would apply even after an employee leaves their employment should sufficient grounds be identified. Whilst this is an expanded duty, we would however continue to emphasise the personal responsibility for maintaining professional standards as required by the registration.

3.77. We would agree that staff in social care roles in registered social care settings or through direct employment should be registered – this would include the inclusion of Personal Assistants and those in adult daycare settings.

3.78. Similar accreditation schemes in other sectors have assisted employers attract and retain staff in competitive sectors – employers should have to attain the accreditation by meeting set criteria in relation to terms and conditions; training and development; worker engagement and adherence to other fair work principles. Within any restrictions of Scottish Procurement Regulations, the accreditation should be a material factor in securing public sector contracts and driving up standards of service and employee support.

h: Valuing people who work in social care

3.79. The published figures (from the joint Care Inspectorate/ SSSC Report – Vacancies in Care Services 2019) indicate at that time *there were around 7,900 registered services (excluding childminders) employing around 184,000 carers across the various care groups. At that snapshot in time around 39% of providers reported having vacancies although this was significantly higher in certain partnership areas*. Undoubtedly the impact of the recent pandemic and demographic growth will have seen the overall total numbers in the sector rise as well as increased turnover of staff as many leave due to the pressures during this period.

3.80. Ensuring we accord an appropriate value to those staff working in social work and social care roles will help make careers in those roles more attractive and support recruitment and retention. This will help address what is often

described as a recruitment crisis in health and social care at present. In relation to a national job evaluation framework and a standard set of terms and conditions – these can only be expressed as a minimum set of standards to reflect the different employment market conditions across Scotland however. Providers in a number of highly competitive markets or in remote rural or island locations will need to vary the offer in order to recruit and retain employees.

3.81. At the Adult Social Care Trauma Deep Dives run by the Local Government Improvement Service, professionals highlighted that the pandemic has resulted in significant levels of burnout, chronic stress and vicarious trauma across their workforce. They anticipated these effects would continue for years to come and noted that for frontline workers in particular, it was difficult to engage meaningfully with the bigger questions of organisational change/ culture change etc. for the near future. In light of this, the ambition set out in the paper to have a fully functioning NCS in place by the end of the Parliamentary term does not feel realistic if the Scottish Government is genuinely committed to this being informed through meaningful consultation with service users and providers.

3.82. From an equality perspective, fair work is vitally important given that a large proportion of the workforce are female and are more likely to experience poverty due to poor pay, especially for those who work part time to cover care commitments for children. Care has not had the status it should have and this needs to change and be valued.

3.83. Similarly, careful consideration will need to be given to the effect of revaluing care as the component tasks may have equivalencies in terms of equal pay or equal value comparators. The potential legal and financial impact of revaluing one role within a job evaluation framework will need to be carefully considered and equality proofed.

3.84. The proposals in respect of workforce representation would be a positive step in ensuring there is an improved voice for those employed in social care and for providers (including local authorities). The Forum should also include representative bodies including COSLA, SPDS, Scotland Excel and relevant trade unions to ensure there is a full representation and consideration of relevant workforce issues. The Forum should cover a broader spectrum than social care and be inclusive of social work and mental health officer roles. The interface with equivalent national workforce planning structures within the NHS will be important to identify opportunities for developing integrated health and social care posts or shared tasks/ activities and for career progression.

3.85. The importance and the challenges associated with workforce planning in the health and social care sector should not be underestimated. A recent Lancet report on the NHS workforce acknowledged that "*Education, training, and workforce plans…have not adequately responded to changing health and care needs. The results are persistent vacancies, poor morale, and low retention*". The report calls for a range of measures including integrated workforce approaches, reforms to education and training, enhanced career

development opportunities and promoting staff wellbeing. All of these need to be factored into the overall workforce planning equation and would be appropriately located within the remit of the NCS (see section 4 below).

3.86. National workforce planning supported by the above tools is core to what an NCS should focus on – this is a function best delivered at a national level and where it can offer additionality. There is a direct connection to the commissioning of further and higher education places to ensure a sufficient supply of qualified staff to meet service demand across local authority, independent and voluntary sector providers at entry and promoted levels. This should integrate workforce planning with equivalent workforce planning activity within the NHS.

3.87. The role of Personal Assistant should not be seen as lesser to that of employed social care workers and they should be held to the same professional standards and quality expectations. Consideration will need to be given to the transition to these arrangements to avoid creating a gap in capacity that leaves service users/ carers unsupported. As noted by the SSSC in its response to the IRASC report, PAs should be encouraged to be registered wherever possible and to adhere to clear professional standards/ Code of Practice. The role can be quite isolating and consideration should be given by CHSCBs as to how they support CPD for these staff who will not have the same opportunities through their employers. This could be in the form of commissioned learning and development and a requirement to demonstrate a minimum number of hours CPD to retain registration. As a minimum it should require a mandatory induction training as recommended by the SSSC.

3.88. Of particular assistance would be further review of the current support available for service users/ carers to manage the HR and payroll issues associated with the employment of a PA to make this option under SDS less daunting and more attractive. Additionally, in the event that a family member is undertaking a PA role but is not necessarily viewing this as a long term future career, consideration will need to be given in relation to the support given to meet registration standards. The SSSC are clear that “a professional workforce must mean regulated with a qualification” and this is an aspiration supported by local government albeit a realistic timeframe to complete such qualification should not act as a barrier to urgent care needs being met in the short term.

3.89. Most of the above provisions would be welcomed to provide enhanced protections both for service users/ carers and PAs. More consideration will need to be given to the operation of regional networks of banks and how/ by whom the matching process would be administered.

3.90. The SSSC response to the IRASC report referenced the Health and Social Care Integrated Workforce Plan (December 2019) which set out proposals seeking to improve career development opportunities and progression in social care through:

- ♦ the development by the SSSC of a new careers resource that illustrates the qualification and career pathways open to staff working in the sector;
- ♦ taking forward the recommendations set out in the Fair Work in Scotland's Social Care Sector 2019 report which specifies that key stakeholders in the social care sector should apply the Fair Work Framework and commit to improving opportunities for progression for social care workers;
- ♦ work by SSSC to understand barriers and enablers to progression and identifying options for improvement, including facilitating interchange and movement between health and social care;
- ♦ undertaking research into the local and national labour markets for social care, which will also identify factors that influence employees to join or leave social care

3.91. South Lanarkshire Council would support the actions set out in the plan and the subsequent work by the Fair Work Implementation Group to introduce improvements in the terms and conditions for social work/ social care workers. We would however note the advice provided by SPDS in relation to planning and understanding the implications of some of the identified improvements which may have significant and unintended adverse consequences in relation to pensions and equal pay/value parity. These need to be addressed before further announcements regarding implementation.

I: Data sharing, analysis and policy development

3.92. The creation of an integrated health and social care record is a long overdue development. Across Scotland there is a plethora of different health and different social care systems and although we now have some system integrators that allows for some sharing these are still cumbersome and inhibit proper data sharing between relevant professionals. The single record is a step in the right direction but this needs to be built upon and a national approach to the development of health and social care data infrastructure grafting on users as existing contractual arrangements terminate should be applied in a similar fashion and approach to the development and expansion of the SEEMIS system in education. This would support improved data sharing and support the transportability of the health and social care records across different areas.

3.93. Common data standards and definitions throughout health and social care may be helpful to enable a strategic national approach to planning and commissioning services. It would seem that there is a wealth of social care data provided by care services to various organisations. However, accessing this data is difficult with organisations unwilling or unable to agree data sharing protocols. Action to facilitate the appropriate flow of information to minimise duplication and support strategic commissioning activity, analysis and intelligent policy development would be welcome.

3.94. There is a strong case for the sharing of data at the personal record level and also at an aggregated level at authority and national level to inform planning, commissioning and performance monitoring/ improvement. This could be

achieved by agreement which is more flexible than the introduction of legislative duties.

3.95. In this discussion however we recognise that it is vital to ensure that any data sharing respects the human autonomy and dignity of those to whom the information relates. This autonomy is protected by Article 8 of the ECHR and can only be interfered with under the circumstances set out in Article 8(2). The sharing of the information obtained from all primary and community health care and social care services must meet the standards required to allow for lawful interference.

3.96. We note that there is nothing within the consultation document as to how that will be achieved in the context of an NCS. Specifically, there does not appear to be any consideration of whether the sharing with that organisation is by itself lawful. Nor is there anything that deals with the Common Law Duty of Confidentiality owed to the individual concerned by each of the separate disciplines involved. Further, there does not appear to be any consideration of proportionality in relation to the sharing.

3.97. Therefore, we would make the general point that this issue should be considered carefully prior to any legislation being introduced to the Scottish Parliament. Failure to do so could have significant effects upon the intended operation of the NCS.

3.98. There is a wide range of development activities already underway and coordinated by the Digital Office jointly funded by the Scottish Government and local government. As illustration and by no means an exhaustive list, this includes:

- Digital Health & Care Strategy 2017 & 2021
- Digital Health & Care Data Strategy (2021 in progress)
- Digital Health & Care Cloud Strategy (2021 In progress)
- Analogue to Digital Telecare Programme (2017 Onwards) with TEC
- The Digital Telecare Team that delivers the programme are hosted withing the Digital Office – Scottish Local Government and funded by TEC.
- Digital Telecare National Programme – delivering the National Shared Repository/Playbook of tools and products to assist in digital switchover (Business cases/ Cyber Security/Project Plans/Technical Blueprints/Business operation guidance/ Financial modelling)
- National Collaborative Procurement for Social Care System Framework in conjunction with Scotland Excel (Live Feb 2021)
- National Collaborative procurement of Digital Telecare products and services in conjunction with Scotland Excel
- Data sharing agreements between councils, Health Boards and PHS to help improve outcomes
- Federation and Collaboration Technical Blueprint for Health & Care to improve collaborative communications and sharing between multi disciplinary teams.

3.99. The Digital Office is also currently working with other partners on a number of relevant initiatives including creating a “Digital Front Door” to Health & Care records and services and potential linkages of Social Care systems and data with Social Security and SEEMiS.

3.100. The Digital Office leads or plays an active role within a range of existing governance structures including relevantly the Digital Citizen Board; the Digital Health and Care Skills Programme Board; Data and Intelligence Group; Digital Identity Scotland Programme; and many others. We would want to ensure that any proposals do not delay or impact existing ongoing work given its critical importance.

3.101. The basis for moving forward with an integrated health and social care record builds on the existing work of the Digital Office with the right support and direction. It does not require the structural change associated with transferring legal accountabilities from local government.

J: Governance and Democratic Accountability

3.102. The IRASC report advocated the extension of voting rights to all CHSCB members – with many IJBs comprising upwards of 25 representatives and all bar the small number of nominated local elected members being unelected, this creates a new and significant local democratic deficit and loss of influence/ lack of accountability. If anything there is an undoubted case for strengthening the role of elected members on IJBs to improve the scrutiny and challenge on performance and use of resources to meet local need. The consultation document makes no reference to whether this is the Scottish Government’s proposed model or whether an alternative local governance model is proposed. Similarly the process for or duration of appointment of CHSCB chairs and vice chairs is not referenced in the document.

3.103. Further, indications that 31 Chief Executives would be appointed and would be accountable to Ministers does not extend to the practical management arrangements for the line management and supervision of these staff. It is not practical for the proposed national Chief Executive of the NCS to directly line manage 31 CHSCB Chief Executives and creating further intermediate management posts to make this operable will add further unnecessary management layers and costs to the proposals.

3.104. The consultation document lacks detail on specific statutory roles such as the Chief Social Work Officer and how the transfer of accountabilities will impact on the critical professional leadership, independent challenge and assurance of this function.

4. Scoping the NCS

4.1. Throughout this response we have acknowledged that there is unquestionably a role for a national approach (whether expressed as an NCS or otherwise) on a number of key proposals in the consultation document that would substantively improve the quality of experience for care service users, carers

and staff. This national approach would work with local authorities; health boards, Health and Social Care Partnerships; commissioned providers; professional bodies; service users; carers organisations and other stakeholders.

4.2. The potential for substantive improvements through a national approach, in conjunction with the investment and measures we have indicated elsewhere, is considerable. These areas relate to the recommendations made in section 5.4 (v) of this response.

- Standards/ Assurance/ Performance Reporting and Scrutiny
- Workforce Planning/ Fair Work/ Terms and Conditions/ Training and Development
- Ethical Commissioning and Procurement
- Complex and Specialist Care Commissioning
- Improvement and Innovation
- Development of the Single Health and Social Care Record and System Integrators
- Use of Aggregate Data for System Level Planning and Policy Development

Standards/ Assurance/ Performance Reporting and Scrutiny

4.3. The maintenance of high quality professional standards by registered practitioners is directly linked to the maintenance of high quality service standards as experienced by service users and carers. For that reason we would support the incorporation of professional registration and professional practice standards into an NCS and the introduction of a Professional Update approach successfully introduced to registered professionals in Education Services. Once clarity is provided on the service models to be delivered, there is also strong case for the introduction of a national framework for service standards being introduced and linked to a Charter setting out clearly what a service user or carer can expect from health and social care services in Scotland. This should not be taken to imply that the delivery of these standards will be identical in every part of Scotland as a one size all approach is neither desirable or deliverable. Local partnerships should take a place based approach to service delivery exploiting to the full the unique assets within those communities. It is self evident that the solutions developed to meet a service user's needs may look different in an island context in comparison to a mainland rural, urban or inner city context. The aspiration is to meet outcomes and achieve a consistency of standard not approach.

4.4 Based on the above proposals, we would support the development of a suite of national service outcomes performance measures and improved performance reporting to support local and national scrutiny. This would be supported by the further strengthening of the inspection and assurance functions within the NCS currently performed by the Care Inspectorate. The connections between inspection, improvement, market oversight and commissioning activities are clear and we would support the development of

some clear mapping of the respective roles and responsibilities within this part of the system to improve operational oversight at a local level and system wide intelligence sharing at strategic level. With the incorporation of the points raised above, we would support the incorporation of these functions within an NCS.

Workforce Planning/ Fair Work/ Terms and Conditions/ Training and Development

4.5 The has been significant positive work undertaken recently by the Fair Work Implementation Group and engaging local government, provider bodies, trades unions and colleagues from the Scottish Government. The case for national workforce planning has been clearly established during the pandemic response phase and has led to recent initial steps in re-valuing social care roles and addressing a range of issues in relation to terms and conditions that have acted as an inhibiter to recruitment and retention. South Lanarkshire Council is keenly aware however that these issues do not sit in isolation however and is mindful of the range of as yet unresolved issues highlighted by SPDS within the Implementation Group discussions that need to be addressed before full implementation can be delivered. Not least of these is being cognisant of the comparability and fair treatment of the wider local government workforce, many of whom support the promotion of positive public health and/or the delivery of health and social care services.

4.6 A national approach to workforce planning allows for a system level consideration of future labour needs (including the commissioning of higher and further education places); and consideration of the ongoing training and development needs of registered professionals (see comment on professional update above). With the added points noted above we would support the incorporation of these functions within an NCS.

Ethical Commissioning and procurement

4.7 As noted in sections 3.67 to 3.72 we highlight the achievements, specialist skills and experience of Scotland Excel and note their contribution as a system strength. It is noted however that Scotland Excel has had to operate in the same financial context as its client local authorities and within the current regulatory framework governing public procurement. We would highlight the potential for close collaboration between an NCS and Scotland Excel in relation to national procurement guidance and regulatory framework to ensure an agreed approach to ethical commissioning and procurement is delivered.

4.8 There is reference to the portability of care packages and assessments within the consultation document – we would support a fuller understanding of the scale of this issue as it does not feature on a regular basis in service user feedback or complaints. Nonetheless it is an issue that could be readily resolved through a transfer protocol following the development and adoption of a set of service standards and Charter.

4.9 We would support further consideration of the respective roles of an NCS and of Scotland Excel to define roles and responsibilities and collaboration that add value in our common approach to ethical commissioning and procurement.

Complex and Specialist Care Commissioning

4.10 We would accept the case for national level commissioning of very specialist and complex care where demand for services is inconsistent, difficult to predict and where it is impractical for individual partnerships to invest in a scale of very expensive provision the demand for which may be volatile. This has been recently evidenced by the joint Scottish Government/ Local Government working group on complex mental and learning disability care that has been looking to address inappropriate out of area long term hospital care. We would support this aspect being incorporated into the NCS although we believe that Scotland Excel could provide valuable support to this work.

Improvement and Innovation

4.11 As noted at section 3.4 to 3.21 there is a clear case for improved coordination of improvement activity across health and social care and establishing greater coherence within what appears to be quite a cluttered and unnecessarily competing landscape. We would highlight a number of principles within our earlier comments – the approach needs to be whole health and social care system; priority should be given to scalability; should built upon existing work; it should have a clear vision on self management and personal responsibilities supported by national political messages; and it should connect with and further refine with the new models of care and investment indicated in the consultation document. South Lanarkshire Council would support the coordination of improvement and innovation in health and social care being incorporated into an NCS.

Development of the Single Health and Social Care Record and System Integrators

4.12 As noted in sections 3.80 – 3.87, there is a strong case for the development of a single health and social care record and system integrators building on the existing progress and work of the Digital Office. The frustrations and barriers to appropriate data sharing and access to information by practitioners in health and social care is one of the most significant inhibiters to progress and is raised repeatedly. We would strongly support the incorporation of data collection (through a single record), data sharing, analysis and use of data to inform policy making and decision making being incorporated in the NCS. Developments in this area and the use of aggregate data will support local strategic and operational level decision making however the ambition need not stop there and we would urge the development of a single national system (based on the SEEMIS model) with all partnerships migrating onto the national system at the end of the relevant contractual periods.

5. Concluding remarks and priorities for further work

5.1. We have highlighted in this response the absence of context for the evolution of the current system and the underlying causes that has produced the negative outcomes for many stakeholders – these are material to considering how to address the flaws in that system. We have further highlighted the lack of reference to the Local Governance Review jointly chaired by COSLA and the Scottish Government. The primary focus of that work to date has centred on the principle of subsidiarity and localism – ensuring that decisions that affect communities and individuals are taken at the closest level possible to those affected. The approach set out in the consultation document prejudices these principles and unnecessarily centralises responsibility and decision making for social work/ social care services. Services should be designed and delivered as close as possible to the people that use them ensuring resources are targeted in the most flexible and effective way to meet the needs of local people.

5.2. South Lanarkshire Council is also mindful of the provisions of the Islands (Scotland) Act 2018 whereby a relevant authority (Scottish Government) must prepare an islands impact assessment in respect of a policy, strategy or service where it is likely to have a significantly different impact on island communities than other communities. Given the progress of integration on a number of islands and the development of local decision making structures, the proposed NCS model will have this effect. We would expect a full islands impact assessment is prepared in relation to the NCS proposals and this is fully consulted on before any decisions are taken in relation to the current consultation. We also re-iterate concerns regarding the lack of equalities, social or environmental impacts assessments we would have expected to have been completed and shared as part of this consultation document.

5.3. Throughout this response we have highlighted where we believe the NCS proposals lack clarity or require further work. Our contention is that to carry out consultation and ultimately take such decisions in the absence of this detail is premature and presents significant risk to all stakeholders. We have therefore noted key areas of work which will be needed regardless of the model chosen. Nonetheless we are clear that there are specific areas that would benefit from a national approach and that would add value to the system, these could comprise a revised vision of an NCS that we believe would generate a greater level of support than one predicated on the removal of social work and social care services from local democratic and decision making arrangements.

5.4 We have set out a number of areas for urgent action that will support the implementation of a quicker, more efficient and more effective improvement rendering the transfer of accountability and wholesale structural reform unnecessary and undesirable. We strongly believe that this should be the focus of attention going forward – realised through local government (COSLA) working with the Scottish Government and the broad range of stakeholder groups with an interest in this service area to design and deliver a Health and

Social Care system fit for purpose in a post pandemic era in modern Scotland. These actions are summarised as follows, we would recommend:

(i) Design, development and costing of new care models to deliver an entitlements based universal offer and a more co-productive complex care assessment and care plan approach.
(ii) Related to the above, a full detailed cost modelling of each of the above options and a short, medium and long term assessment of affordability.
(iii) Development of a full detailed taxation strategy to fund in full the assessed financial cost of the care model options.

Items 1 – 3 above will require a full and detailed national consultation prior to moving forward.

(iv) A full and detailed options appraisal of the various accountability and governance models to implement and provide oversight to the implementation of the new care models outlined above. The single model set out in the consultation is far from the only option that should be considered. This to consider all legal, democratic, financial, asset, risk, pace/ timeline and impact of each model.
(v) The above options appraisal should also consider the optional make up of an NCS noting which services/ functions add greatest value and where the case for a national approach is strongest.
(vi) Full equalities, environmental, social and island impact assessments to be completed as part of item 4 above.
(vii) Address urgently the issues highlighted by the Fair Work Implementation Group in relation to social care worker remuneration and terms and conditions – ensuring that the implementation, legal and equalities issues highlighted by SPDS are addressed.

As with items 1 – 3, items 4 – 7 will require a fuller consultation once this detail is available.

(viii) Following the respective detailed consultation noted above, only then should the necessary enabling legislation be prepared and followed by the more detailed legislative proposals as necessary to give effect to the policy decision.
(ix) The preparation of a master implementation plan comprising a range of implementation programmes and coordinated timeline covering the full range of policy recommendations

We would highlight the current joint working structures established between the Scottish Government and COSLA involving other stakeholders during the pandemic to assist with health and social care recovery. These arrangements can accelerate early improvement and implementation if the planned resource investment is available in advance of the steps above being concluded. This would be particularly effective if that resource was targeted in the first instance to meeting the current financial exposure faced by local authorities due to

the COVID related surge in demand and to introduce a range of preventative and anticipatory care supports.