

PARLIAMENTARY BUREAU

REFERRAL OF A BILL AT STAGE 1: NATIONAL CARE SERVICE (SCOTLAND) BILL

Introduction

1. The National Care Service (Scotland) Bill was introduced by the Cabinet Secretary for Cabinet Secretary for Health and Social Care, Humza Yousaf MSP on 20 June 2022.
2. This paper invites the Bureau to:
 - recommend to Parliament the designation of a lead committee at Stage 1
 - recommend to Parliament the designation of secondary committees.

COMMITTEE DESIGNATION

3. The Bill has three substantive parts:
 - Part 1 of the Bill makes provision to establish the National Care Service (“NCS”). The NCS (as defined in section 33) comprises both the Scottish Ministers carrying out functions under Part 1 and care boards (new statutory bodies which can be established by the Scottish Ministers). The Scottish Ministers are given various powers to:
 - establish care boards (section 4)
 - transfer social care functions from local authorities to the NCS (section 25)
 - transfer health functions from the NHS, health boards or special health boards to the NCS (section 26).
 - The functions which can be transferred from local authorities are those conferred by an enactment listed in schedule 3. There is no limitation in section 26 on the health functions that can be transferred to the NCS.
 - Part 1 contains various other provision in relation to the establishment of the NCS covering areas such as the principles of the NCS, the provision of financial assistance to care boards, requirements to produce ethical commissioning strategies, and powers for the Scottish Ministers to intervene in the operation of care boards and the delivery of services under the NCS.
 - Part 2 of the Bill relates to health and social care information, specifically to:
 - give the Scottish Ministers the power to provide for a scheme for information to be shared by and on behalf of the NCS or the NHS (section 34)
 - place the NCS and the NHS under a duty to comply with any information standard (which sets out how information is to be processed) produced by the Scottish Ministers (section 35).

- Part 3 makes various provision in relation to the delivery, procurement and regulation of care. These are not necessarily linked to the establishment of the NCS. For example, section 36 makes provision to give carers certain rights to respite breaks.

4. The following Committees have an interest in this Bill

Health, Social Care and Sport Committee	The remit of the Health, Social Care and Sport Committee includes to consider and report on matters falling within the responsibility of the Cabinet Secretary for Health and Social Care. The Bill is introduced by the Cabinet Secretary for Health and Social Care and pertains to social care and health care.
Education, Children and Young People Committee	The remit of the Education, Children and Young People Committee includes to consider and report on matters falling within the responsibility of the Cabinet Secretary for Education and Skills. The functions which can be transferred from local authorities are those conferred by an enactment listed in schedule 3, which include the Children Act 1975, Foster Children (Scotland) Act 1984, Children (Scotland) Act 1995, Adoption and Children (Scotland) Act 2007, Children's Hearings (Scotland) Act 2011 and Children and Young People (Scotland) Act 2014.
Local Government, Housing and Planning Committee	The remit of the Local Government, Housing and Planning Committee includes to consider and report on matters relating to local government, housing and planning falling within the responsibility of the Cabinet Secretary for Social Justice, Housing and Local Government. The Bill provides powers to Scottish Ministers to transfer social care functions from local authorities to the NCS (section 25).
Criminal Justice Committee	The remit of the Criminal Justice Committee includes to consider and report on matters relating to criminal justice falling within the responsibility of the Cabinet Secretary for Justice and Veterans, and functions of the Lord Advocate other than as head of the

systems of criminal prosecution and investigation of deaths in Scotland. The functions which can be transferred from local authorities are those conferred by an enactment listed in schedule 3, which include Criminal Procedure (Scotland) Act 1995, Children's hearing (Scotland) Act 2011, Criminal Justice (Scotland) Act 2016, Age of Criminal Responsibility (Scotland) Act 2019 and Management of Offenders (Scotland) Act 2019.

Social Justice and Social Security	The remit of the Social Justice and Social Security Committee includes to consider and report on matters falling within the responsibility of the Cabinet Secretary for Social Justice, Housing and Local Government, excluding matters relating to local government, housing and planning. The Cabinet Secretary's remit includes tackling inequalities and the third sector. Part 3 of the Bill would engage this remit.
Equalities, Human Rights and Civil Justice Committee	The remit of the Equalities, Human Rights and Civil Justice Committee includes to consider and report on matters relating to equal opportunities, human rights and matters relating to civil justice. The Bill seeks to create a National Care Service Charter, provide access to independent advocacy services, handling complaints and provide rights to carers all which fall within the remit.
Economy and Fair Work Committee	The remit of the Economy and Fair Work Committee includes matters relating to the economy falling within the responsibility of the Cabinet Secretary for Finance and the Economy. The Bill makes provision for commissioning and procurement services and there could be employment implications due to the transfer of functions. As such the committee's remit is engaged.

5. It is considered that the Health, Social Care and Sport Committee has the primary interest in this Bill.

6. It is understood that Education, Children and Young People Committee and the Local Government, Housing and Planning Committee wish to consider the Bill and it is recommended that they be designated as secondary committees. Such designation does not, however, require that the Committees consider the Bill.

7. Lack of a formal designation does not prevent any committee whose remit is engaged from considering the Bill if it so wishes.

8. The Bureau is invited to consider recommending to the Parliament by motion that it agrees, under Rule 9.6.1, to designate—

- The Health, Social Care and Sport Committee as the lead committee for consideration of the National Care Service (Scotland) Bill, and
- The Education, Children and Young People Committee and Local Government, Housing and Planning Committee as secondary committees.

9. A draft motion can be found in **Annex A**.

**Parliamentary Business Team
June 2022**

ANNEX A

Draft Parliamentary Bureau motion on the National Care Service (Scotland) Bill:

Designation of Lead Committee- That the Parliament agrees that the Health, Social Care and Sport Committee be designated as the lead committee, and that the Education, Children and Young People Committee and Local Government, Housing and Planning Committee be designated as secondary committees, in consideration of the National Care Service (Scotland) Bill at Stage 1.