Consultation - National Care Service (Scotland) Bill

Date: 31/08/22

# About us

We’re RCOT, the Royal College of Occupational Therapists. We’ve championed the profession and the people behind it for over 80 years; and today, we are thriving with over 35,000 members. Then and now, we’re here to help achieve life-changing breakthroughs for our members, for the people they support and for society as a whole. Occupational therapists in Scotland work in the NHS, Local Authority social care services, housing, schools, prisons, care homes, voluntary and independent sectors, and vocational and employment rehabilitation services.

Occupational therapy helps you live your best life at home, at work – and everywhere else. It’s about being able to do the things you want and have to do. That could mean helping you overcome challenges learning at school, going to work, playing sport or simply doing the dishes. Everything is focused on increasing independence and wellbeing.

It’s science-based, health and social care profession that’s regulated by the Health and Care Professions Council.

An occupational therapist helps people of all ages overcome challenges completing everyday tasks or activities – what we call ‘occupations’. Occupational therapists see beyond diagnoses and limitations to hopes and aspirations. They look at relationships between the activities you do every day – your occupations – alongside the challenges you face and your environment.

Then, they create a plan of goals and adjustments targeted at achieving a specific set of activities. The plan is practical, realistic and personal to you as an individual, to help you achieve the breakthroughs you need to elevate your everyday life.

This support can give people a renewed sense of purpose. It can also open up new opportunities and change the way people feel about the future.

# Our response

**The Policy Memorandum accompanying the Bill describes its purpose as being “to improve the quality and consistency of social work and social care services in Scotland”. Will the Bill, as introduced, be successful in achieving this purpose? If not, why not?**

The Royal College of Occupational Therapists (RCOT) commends the ethos of the bill whereby there is a shift to early intervention and prevention however it is not clear how this will be resourced, measured, or achieved. We require greater clarity on what is meant by “care” in the title National Care Service (NCS) as this means different things to different individuals and organisations. To meet the described model whereby the NCS is enabling there must be a clearer definition and collective understanding of the term care. To ensure that people are supported by the National Care Service to live their best lives there must be a shift whereby people stop viewing care as a passive “done for you” approach to a more enabling “do with you” approach.

A rehabilitation, reablement and supporting positive risk-taking approach, and the training to support this, is important for service users, carers and staff and for the success of the NCS. Occupational Therapists will be key in the delivery of the National Care Service; however, this is not obvious from the bill which fails to mention the important role of occupational therapists but rather focuses on social care and social workers.

There must be a shift from passive “care for you” language to a more active “supporting you to live your life” approach. It is important that the Scottish Government commitment to a right to rehab (Programme of Government 2021) is included in the bill to help support the shift to delivering services in a different way to meet the aspirations of the NCS. The role of social care and social work often follows later in the care journey of an individual with the early steps being underpinned by rehabilitation and reablement to help individuals achieve their maximum potential. Rehabilitation and reablement can be repeated at different times of need to support people achieve their maximum potential after any life changes. This model should be reflected in the bill to ensure that it is robust and reflects modern and transformative health and care services.

Further clarity is required regarding community health before any comment can be made on whether the bill will be successful. At this time, it is not clear which community services will be included or not included in the bill.

We need to better understand what is meant by Social Care and Social Work in Scotland as without further explanation this risks meaning different things to different people. The description and aspirations of the NCS suggest a model which aligns and joins with community health - so do we really mean for success to be measured only around social work and social care? True success and transformation will be wider than this and include occupational therapy and other community health services.

RCOT would like to understand as to why the purpose of the bill aligns to improving quality and consistency of services rather than improving outcomes for people – viewing this bill through a lens of outcomes would be much more inclusive and encourage exploration of how we help people not in acute hospital care to live their best lives. Further clarity is required as currently RCOT are under the impression that the NCS remit will extend to include all services not in acute hospital care, but this is not explicit in the bill.

The Policy Memorandum accompanying the Bill describes its purpose as being “to improve the quality and consistency of social work and social care services in Scotland” It is misleading in to only mention social care and social work as occupational therapist are employed in social work teams as occupational therapists and are not social workers. Under the Chronically Sick and Disabled Person’s (Scotland) Act 1972 there is a legal requirement for occupational therapists to be employed in social work teams.

The proposal of a National Social Work Agency risks being divisive and RCOT questions why we are focusing on one profession rather than taking a wider view as we continue to develop Scotland’s services in a more integrated way across health and care. RCOT supports the creation of a national agency but believes that this should have broader remit to cover all staff working in the new integrated NCS teams. This would ensure a more equal approach to workforce planning, continuous professional development (CPD), to supporting cultural shift to a model based on rehabilitation, reablement and early intervention to support to Feeley’s vision that social care should be a “springboard and not a safety net”.

We need any future agency to conder leadership across all professions in the new NCS ensuring we have the best people in future leadership roles with these been filled with people with the right skill mix and experience rather than this being defined by professional background. A more consistent approach across all professions in the NCS, rather than an agency for only one profession, must be an important factor and consideration in how we transform services together.

RCOT believes that there is some merit in centralisation of services such as a fairer and potentially more equitable system regardless of where you live in Scotland. However, we caution that we must not lose sight of the value of a locality-based approach which is shaped around knowing, understanding, valuing, and advocating for the needs of a local community. A balance between local and central decision-making should be struck.

**Is the Bill the best way to improve the quality and consistency of social work and social care services? If not, what alternative approach should be taken?**

The Bill must think more widely about, and give greater heed to, the role of community health in a future NCS. What is community health and what is included in the NCS remains unclear and requires clarity.

**Are there any specific aspects of the Bill which you disagree with or that you would like to see amended?**

As well as greater clarity around community health, the bill should specifically refer to occupational therapists rather than including them generally as part of the social work and social care workforce. As previously outlined, they have a crucial role to play in reducing dependence on care and merit inclusion in the bill.

**Is there anything additional you would like to see included in the Bill and is anything missing?**

We must consider the importance of culture and cultural change in transformational work as described to create and develop the new NCS. New structures will only be a part of delivering the NCS.

People are key and we must work together across new multi-disciplinary teams (MDTs) to make the NCS a success. The bill needs more detail of how the NCS will be built on MDTs formed of staff from health and care and we need to be cognisant that resource will be required to support this, which is not evident or referenced in the bill.

**Future secondary legislation**

**The Scottish Government proposes that the details of many aspects of the proposed National Care Service will be outlined in future secondary legislation rather than being included in the Bill itself. Do you have any comments on this approach?**

**Are there any aspects of the Bill where you would like to have seen more detail in the Bill itself?**

Clarity around what is meant by community health and who will and who will not be part of this. Greater reference to wider services that will support the NCS such as occupational therapist and other Allied Health Professionals.

Detail about resourcing.

Detail about the proposed number of future care boards.

**Transfer of services to the National Care Service**

The Bill proposes to give Scottish Ministers powers to transfer a broad range of social care, social work and community health functions to the National Care Service using future secondary legislation.

**Do you have any views about the services that may or may not be included in the National Care Service, either now or in the future?**

Occupational Therapists work across health and care, and across the lifespan, with those requiring services, and with carers, by supporting people to have the skills to do the things that they want to do. This is a very important workforce in the NCS but has no mention in the bill.

**Do you have any general comments on financial implications of the Bill and the proposed creation of a National Care Service for the long-term funding of social care, social work and community healthcare?**

No comment

**Do you have any comments on the contents and conclusions of these impact assessments or about the potential impact of the Bill on specific groups or sectors?**

No comment on impact assessments

**Did you take part in any consultation exercise preceding the Bill and, if so, did you comment on the financial assumptions made?**

**Please provide your response in the box provided.**

No Comment

**If applicable, do you believe your comments on the financial assumptions have been accurately reflected in the financial memorandum (FM)?**

No Comment

**Please provide your comments on the National Care Service principles in the box provided.**

We commend the principles but have concerns about the gap between aspiration and delivery.

**Please provide your comments on Scottish Ministers’ overarching responsibilities for the National Care Service in the box provided**

It is unclear how current structures will be impacted by the changes. Occupational Therapists who work in health or care are currently in the portfolio of the Chief Allied Health Professionals Officer (CHAPO) and it is unclear whether the NCS will have an impact on this.

The new structure must avoid any duplication of roles and learn from challenges evident during integration. For example, an NHS occupational therapist being brought into an integrated team with an occupational therapy colleague with a social work contract. Both will have the same training and similar roles but will have different pay, terms, and conditions. Currently this is dealt with on a good will basis between colleagues but a more coordinated approach through the NCS reporting to a minister should be an opportunity to tackle these anomalies.

The Royal College hopes that care boards reporting to a minster might change the differences in provision and resourcing between regions across Scotland especially in areas such as reablement support, funding for equipment and adaptations or the funding for ongoing care. Currently this will differ between local authorities / Health and Social Care Partnerships and being accountable to a minster is an opportunity to minimise variation across Scotland. Although we would again stress that a balance between local and central decision-making should be struck.

**Establishment and abolition of care boards (Sections 4 and 5 / Schedules 1 and 2)**

RCOT advocates for Allied Health Professional (AHP) representation which is equal to that of social work, nursing, and medicine on the new care boards. AHPs (as a combined group) are the third biggest workforce in the NHS and are leaders in enabling and rehabilitative support. Occupational Therapists comprise a significant part of the social work and social care workforce.

To help shift services to be more focused on prevention and early intervention the active involvement and visibility of AHPs is key.

It is crucial that the new care boards do not replicate the old Integrated Joint Boards and that the new care boards have AHPs visible in leadership structures. RCOT also believes that equal opportunity should be given to AHPs with appointments made based on experience and leadership ability and not solely on professional background.

More information is required about the number and location of the proposed care boards.

**Strategic planning and ethical commissioning (Chapter 2)**

AHPs are experts in reablement and rehabilitation so must be involved in strategic planning going forwards.

**National Care Service Charter (Sections 11 and 12)**

The bill is ambiguous as to whether the charter will be co-designed or co-commissioned. If it is co-designed, it must be done so both by service users and service providers to make sure it accommodates the opinions of those who depend on it.

**Independent advocacy (Section 13)**

Independent advocacy is an important consideration to ensure that service users have a voice, and that due consideration is given to human rights and RCOT support this.

**Complaints (Sections 14 and 15)**

We support an accessible complaints procedure for service users

It is not clear from these sections whether there is a planned complaints procedure for staff running parallel with a whistle blowing procedure. It is important to ensure that there is a mechanism for staff to raise issues should they arise.

**Ministers’ powers to intervene (Chapter 4)**

No response

**Connected functions (research, training, other activities and compulsory purchase (Chapter 5)**

RCOT is unclear what is meant by the wording “to provide financial assistance to undertake other activities connected to services provided to individual by the NCS”. This requires further explanation.

It is important to ensure training is not duplicated and there are clear dividing lines between what is provided by local authorities and what is provided by the NHS.

To ensure the optimal function of a new NCS cross agency interdisciplinary training is required which focuses on outcomes for individuals. RCOT feels it is unhelpful that an agency is only proposed for social work colleagues, and we would advocate that the scope of this agency should be widened to include all professional groups in the NCS, thus making it more of an “integrated services agency”. The success of the NCS is in no small part reliant on culture change and it is essential to focus on cross agency interdisciplinary working to achieve this. The Royal College believes this demonstrates a lack of vision to focus only on the social work profession and not to consider this as an opportunity to bring the new NCS teams together.

RCOT believes equal opportunities in research and training opportunities should be extended to occupational therapists. Training opportunities for and with occupational therapists are vital, given the success of a future of health and care model must be based on a more active approach to support focused on rehabilitation and reablement. Such an approach is cost effective in helping people to achieve their potential and thus reduce need for care package support.

It is unclear if the focus of this area includes undergraduate training which is important to consider as they are our future workforce.

**Inclusion of children’s services and justice services (Section 30)**

RCOT believes that for the NCS children’s services need to either be fully in or fully not in the NCS

We need more information to understand any proposed model. We need to understand what is meant by children’s services; for example, if they begin at pregnancy or after birth, and at what age the child is no longer eligible.

The bill must also consider how the NCS will manage the care of children while considering the wider needs of the collective family which may have needs covered by adult services which are part of the NCS.

Children’s services do not just extend to health and care but also must consider education and criminal justice - which sit in different teams at Scottish Government in current structures.

**Consequential modifications / Interpretation of Part 1 (Chapter 7 and Schedule 4**

No comment

**Health and social care information (Part 2)**

RCOT are supportive of a shared digital record across health and care. Currently occupational therapists work in integrated teams but may be employed by health or care and this still can cause difficulties accessing records depending on who the employer is and who is providing the IT. On occasion this can mean a lack of access to notes which is an unnecessary risk or can mean notes having to be written twice onto health and care systems which is an unnecessary burden on staff with busy workloads. RCOT would advocate for a move to patient held or patient accessible records to facilitate true partnership working and to support a more self-managed approach to service delivery.

**Right to breaks for carers (Sections 38 and 39)**

RCOT support a mandatory right to break for carers and to a right to respite.

**Implementation of Anne’s Law (Section 40)**

All bedded care settings should be covered by Anne’s Law, including impatient wards, acute care, and community hospitals.

Family members must be viewed as partners in care with visits viewed as good for health, wellbeing and supporting the individual to live their best life.

The importance of compassion for citizens we support with must also be apparent in future bills.

**Reserved right to participate in certain contracts (Section 41)**

RCOT is unclear about the intention of this section and requires more information about the risk and rights. It would be helpful to have more information on the impact on NHS services carried out under the NCS.

**Regulation of social services (Sections 42 and 43**

RCOT believes service regulation is important. It is important to note here that whilst most staff working in social care and social work in Scotland are regulated by the Scottish Social Services Council Occupational Therapists (and other AHPs) are regulated by the Health and Care Professions Council (HCPC).

**Final provisions (Part 4)**

No comment

Contact

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