



A National Care Service for Scotland - Consultation

RESPONDENT INFORMATION FORM

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Are you responding as an individual or an organisation?

Organisation

Full name or organisation's name

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Yes

Organisations – your role

Please indicate what role your organisation plays in social care:

The Children’s and Young People’s Centre for Justice (CYCJ) works towards ensuring that Scotland’s approach to children and young people in conflict with the law is [rights-respecting](#), contributing to better outcomes for our children, young people and communities.

We produce robust internationally ground-breaking work, bringing together children and young people’s contributions, research evidence, practice wisdom and system know-how to operate as a leader for child and youth justice thinking in Scotland and beyond. CYCJ’s contribution to the youth justice sector in Scotland was defined in our 2020 evaluation as three-fold:

“...it produces information which is of use, and robust, for its audience; it offers boundary-spanning linkages to break down the silos between organisations, services, and kinds of practice; and it maintains a focus on seemingly intractable issues in the sector, providing a multi-pronged approach to untangling and unsettling the barriers to change” ([Stocks-Rankin, 2020](#), p.2).

In doing so, our focus is on three key activities:

- Participation and engagement: amplifying the voices of children and young people;
- Practice and policy development: developing, supporting and improving justice for children and young people;
- Research: Improving our understanding of justice for children and young people.

These activities are underpinned and connected by communication and knowledge exchange work, which is focused on improving awareness of evidence in different forms, and supporting dialogue between different perspectives, types of knowledge and viewpoints.

Uniquely we provide support to individual practitioners and for service development, to develop the vision of youth justice in Scotland and across a resource level, relationship level, and system development level. It is recognised that it is "...the ability to work at the highest echelons on policy making and governance and into the depth and detail of day-to-day practice that makes CYCJ effective” ([Stocks-Rankin, 2020](#), p.2).

CYCJ is primarily funded by the Scottish Government and based within the [University of Strathclyde](#). Our position both within a University and the additionality of funding beyond the Scottish Government are features that support our autonomy.

The team comprises a range of professional roles including social workers, psychologists and researchers, who have fulfilled frontline and managerial positions in social work and social care. Team members also have had experience of receiving, or a close family member or friend having received, social care or social work support.

CYCJ has only responded to the questions where we believe we can offer some additionality, unique perspective or further evidence that is relevant to the proposed change. In doing so, we have drawn on our participation in multiple stakeholder consultation events across the childcare and justice sectors and what we have heard through our ongoing work with and support to children and young people with experience of the care and justice system, and practitioners who are supporting these children. For the reasons detailed below, we have found it difficult to engage with the consultation and as a result we have not ticked questions about the benefits or otherwise of the National Care Service (NCS). In addition, we have not provided yes or no answers as we believe this cannot cover the complexity or scale of the change being proposed. In considering such a wholesale change to the future of service provision, no one agency can have all the answers - we believe further collective and targeted stakeholder engagement and work to develop either what the NCS could look like, or indeed what are alternative options, in partnership with those who use services is necessary. CYCJ would be keen to be part of such further discussions.

Questions

Improving care for people

Q.1: What would be the benefits of the National Care Service taking responsibility for improvement across community health and care services?

Supporting improvement to outcomes for children in or on the cusp of coming into conflict with the law, or in or on the edges of secure care, is at the core of what CYCJ does. In doing so CYCJ has a crucial role in supporting improvement work across the broad workforces that support these children and their families, which span social care, social work, justice services, education, and health, based in the community, residential provision, secure care and Young Offenders Institutions (YOIs)/prisons. This work is often rooted in improvement methodology, service (re)design and implementation science, with the supports and barriers to improvement multiple and well established in the literature. From this experience and understanding, we recognise that there are challenges with seeing the impact of large-scale evidence-based improvement work in the integrated world of health and social care and that the implementation gap between policy and practice, as well as scaling up improvement work, exists. We know that even modest change can be difficult to achieve in practice. Where systemic or transformational change is needed, this can prove more challenging. We also have a good understanding of what can support practice change, including time, capacity, dedicated support, buy-in and involvement of the right people, leadership and resource. Support to build improvement capacity is therefore important.

CYCJ has a proven track record of supporting improvement activity across policy, practice, participation and research in relation to children and young people on the cusp of, and in conflict with the law, with the following examples evident:

- [Research on Bail and Remand](#), which found that, “the children interviewed revealed that they do not understand what happens at court and how the decision-making process is enacted, and they did not have the opportunity to be included, or even heard, in decision-making.” This was irrespective of the decision makers’ acknowledgement of children as requiring different considerations than adults and flexibility in their deliberations reflecting this position. However, that was consistently not how children and their families experienced their court journey. This research concluded, as has previous research by CYCJ, that the structure and processes of our current court system are inappropriate for children who are ill-prepared for such an environment. That rather than tinker around the edges what is required is, “a more radical re-shaping of our justice system, which engages and co-designs with children, young people, victims and professional stakeholders. Ultimately a justice system that is modelled on participation, procedural fairness, and equity.” This research has contributed to the development of supported bail guidance.

- [Secure Care Census](#), which highlighted the adversities encountered by children within secure care, not least the significant rates of relative poverty, community deprivation and exposure to Adverse Childhood Experiences. This research also highlighted the substantial distance that children are placed away from their families, with cross border placements regularly resulting in children being accommodated over 500 miles from their home. This research has been utilised within training sessions to secure care staff,

publications, inputs to social work management, NHS practitioners and within the roll out of the Secure Care Pathway and Standards.

- The [Secure Care Pathways and Standards Scotland](#) developed from the findings and recommendations of the CYCJ hosted [Secure Care National Project](#). These co-produced Standards set out for the first time what all children in or on the edges of secure care should expect across the continuum of supports and services involved in their lives. CYCJ has led the development, design and delivery of these Standards and is now responsible for supporting the implementation of the Standards, with the provision of associated improvement support.

- Trauma, Bereavement and Loss. Initial [research](#) which focused on the experiences of trauma and bereavement within a group of young people housed within the Polmont YOI was followed by a second phase in which CYCJ collaborated with the leadership at Polmont to raise awareness of the research findings and help translate the learning. This led to training for all staff (developed by a third sector organisation) and efforts across Polmont to adopt a more trauma-informed way of working. CYCJ was also involved in supporting the development of new trauma, bereavement and loss services at Polmont with Barnardo's, as well as the evaluations of these services for [young men](#) and for adult [women](#).

- [Participation and engagement](#) has become a growing feature of our work at CYCJ, and has led to contributions being made by our participation group [Youth Justice Voices](#) in a number of areas. In addition to meeting with the Deputy First Minister, former Justice Minister, the current Children's Minister and her predecessor, the members have expressed opinions on a range of issues including Police Scotland, disclosure, and indeed this consultation. CYCJ also supports the [STARR](#) group, Scotland's only curated space for people with lived experience of secure care who have had a central role in the development of the Secure Care Pathway and Standards Scotland, the Independent Care Review, and Secure Care Strategy Board and Group.

- Management and reduction of the risk of harm through the updated national guidance [Framework for Risk Assessment Management and Evaluation \(FRAME\) with children 12-17years](#); Standards Guidance and Operational Requirements for Risk Practice. CYCJ supported the development of this and will support the implementation across Scotland. This work is also supported through the Risk Formulation [Forum](#).

- [Criminalisation of looked after children](#). CYCJ research on this topic provided further data but also illuminated the complexities in responding to offending behaviour in residential childcare and factors that could support practitioners in reducing unnecessary police contact and ensuring if this did take place, it was done in a thoughtful and considered manner. The Next Steps project sought to implement this learning in practice, working in partnership with a range of agencies. By working with Police Scotland, a pilot project was developed which combined changes to police policy to enable greater discretion of responses, along with multi-agency training. CYCJ completed the evaluation of this pilot which found positive impacts on outcomes for children, with a further pilot taking place with the aim of national roll out.

- The CYCJ report '[Rights Respecting? Scotland's approach to children in conflict with the law](#)' shows that many children who are in conflict with the law in Scotland do not

experience 'justice' in the true meaning of the word. The report did not just highlight the problem but concluded that Scotland would benefit from thinking about children in conflict with the law from the perspective of rights, setting out where change was needed and how this could be achieved. This report has been hugely influential, not least in shaping the Scottish Government's [A rights-respecting approach to Justice for children and young people: vision and priorities](#).

- [Inclusion as Prevention](#) (IAP) is a five-year initiative funded by the National Lottery Community Fund. IAP is a partnership between CYCJ, South Lanarkshire Council, Action for Children and Dartington Service Design Lab. The focus of the project is on co-production and collaboration with young people, communities and partners, testing out ways to improve how services can be provided to better meet needs of children, young people and families, and using this learning to support wider longer-term systems change.

CYCJ benefits from being a national centre, meaning we can gain a national picture of practice and the challenges our partners face. This enables to provision of locally tailored support, while our links to national agencies and the Scottish Government, mean we are well placed to identify and seek national solutions where required. We work innovatively to share this learning across Scotland using a variety of methods to do so: monthly e-bulletins, blogs, reports, social media, websites, and the provision of curated spaces for people to come together to gain and share learning and experiences. We host a range of national events and supporting forums including the annual youth justice conference, National Youth Justice Advisory Group, Early and Effective Intervention, Diversion from Prosecution, Participation, Restorative Justice, Risk Formulation, Scottish Prison Service Partners meeting, and Secure Care Pathway and Standards Champions. We have a dedicated link to each of the 32 local authorities. We directly respond to the needs of social work and social care staff by offering case advice, training and support. We also see opportunities to fill gaps in Scotland to further support the workforce through developments like the creation of a [new postgraduate certificate](#) and service design service. We also link with other professionals to support their understanding of the social work role and how better partnership working can be achieved. Being based within a University allows centres like ourselves the autonomy to challenge policy and practice and make improvements on the ground. It allows us to make the important links between research, practice, policy and participation. The links with the University also build our research capacity, offer research support and the application of research.

Nationally there are a range of other agencies who are involved in supporting improvement work across distinct areas of practice, including, CELCIS, IRISS, HIS, CYPIC and Community Justice Scotland. We work closely with many of these agencies, with specific examples of coordinated work taking place with different organisations; for example with CELCIS in respect of the [Scottish Care Leavers Covenant](#) and [Scottish Physical Restraint Action Group](#); Community Justice Scotland in respect of [Diversion from Prosecution](#) and [Restorative Justice](#); IRISS in the development of the Secure Care Pathway and Standards Scotland [website](#) and the recently updated resource [The child's journey: A guide to the Scottish justice system](#). We also work closely with the Care Inspectorate, particularly in respect of restraint and secure care, including in the co-production of the Secure Care Pathway and Standards Scotland, and the Commissioner's office in relation to Children's Rights. Continuing

this joined up working regardless of any proposed changes will be important, as will methods and resources by which we can individually and collectively build our improvement capacity. Additional support to join up and consolidate existing improvement activity and approaches; implement what we know supports change; build the capacity of existing centres and agencies; and to engage with partners, be these geographic or professional, who are not currently involved or as involved in improvement activity as they could be, would be beneficial.

Q.2: Are there any risks from the National Care Service taking responsibility for improvement across community health and care services?

While we envisage many potential benefits from one agency being responsible for improvements, with any change comes some risk. The scale of the task is a risk, with it unclear whether and how improvement across all community health and care services could be managed and supported by one single agency. We are concerned about how decisions on competing demands would be made and the skills, knowledge and expertise that would be needed if all areas of practice be supported. There is a significant risk of ensuring that individuals and groups who often have extremely complex needs but are smaller in numbers, for example children in conflict with the law, in or on the edges of secure care, or are in custody are not lost within improvement activities. Similarly, there is a real risk of losing the specific and specialist knowledge and expertise provided to the practitioners who support these children. Loss of autonomy and the ability to challenge is a further potential risk with the NCS having accountability to Ministers at a national level. We believe it is important to keep centres of excellence to support specific areas of practice, which may otherwise get lost. Ultimately, we believe the loss or dilution of dedicated specialist knowledge and support to sections of the workforce would reduce the quality of service and support that those individuals who receive these services can benefit from.

As detailed above, nationally there are already a range of other agencies who are involved in supporting improvement work across distinct areas of practice. Any improvement function needs to build and capitalise on the existing centres, such as CYCJ, that has led these activities in Scotland (CYCJ has spent eight years building up knowledge, skills, expertise, approaches and learning). We would echo the views of CELCIS that it would not be beneficial to be subsumed into any new agency, including an NCS, due to the history and value of our independent position within the University of Strathclyde and with the links to the relevant research and knowledge exchange activities in the School of Social Work and Social Policy. As detailed above we are as always keen to continue to join up working with other agencies that support improvement.

Moreover, there is a further risk that existing ongoing improvement work is derailed, diluted or lost. As detailed throughout our response, radical and transformative change that is already underway across social care and social work, particularly within children and families' services and the justice system. Where this change has stemmed from the voices and experiences of those who are or have used services, such as the [Independent Care Review](#) and the work of [the Promise](#) and the [Secure Care Pathway and Standards Scotland](#), it is particularly important that the commitments made are honoured and change that has already been agreed to is not delayed or lost. It is

however recognised that bringing together planned and ongoing change and improvement activity will be challenging ([Duncan, 2021](#)).

Support planning

The only comment we would make on this section is that there will be valuable learning if these approaches are implemented from the experience of GIRFEC implementation and the associated practice models, single planning process, roles and responsibilities, information sharing and common language, as well as from the Whole System Approach (WSA) to children in conflict with the law. While an [evaluation](#) of the WSA has been completed (we would gladly provide further information), our understanding is that no such review of GIRFEC has been completed (beyond the pilot), which is significant given the proposal to extend this to everyone. We would signpost to the responses of other childcare organisations, including CELCIS, for further details on the successes and barriers to GIRFEC implementation.

Using data to support care

Q.10: To what extent do you agree or disagree with the following statements?

The development of a health and social care record has echoes of the recommendations made in the [Report on Expert Review of Provision of Mental Health Services at HMP YOI Polmont](#), which could offer important learning for this proposal. We would also welcome efforts to address information sharing and data protection challenges experienced in youth justice. However, it is crucial that all information and record sharing is proportionate in compliance with both Human Rights, Children's Rights reflecting the special consideration for children outlined by the [Information Commissioners Office](#), as well as data protection legislation. There are potentially considerations and learning from information sharing in respect of children under GIRFEC that could be utilised if this is to be progressed. There will also be important learning from the Secure Care Pathway and Standards Scotland and the Promise regarding what and how information is recorded and shared, including language, ownership, and inclusion. In addition, cognisance should be taken of the potential impacts that records relating to offending behaviour criminal convictions may have.

Q.11: Should legislation be used to require all care services and other relevant parties to provide data as specified by a National Care Service, and include the requirement to meet common data standards and definitions for that data collection?

The gaps in data detailed in the Independent Review of Adult Social Care (IRASC) are echoed in our experiences related to children in conflict with the law and efforts and challenges to develop a minimum dataset under the previous Scottish Government youth justice strategy [Preventing offending: getting it right for children and young people](#). We would welcome the requirement of common data standards, but these would need to be considered for all relevant areas of social care including children and young people on the cusp of, or in conflict with the law, and in or on the edges of secure care. One of the challenges is to make sure that the data collected is meaningful and will contribute to service improvement and better outcomes. We are not convinced that the use of legislation to require the provision of data would necessarily be helpful in this regard. Another challenge faced is that children come into contact with services that are

wider than social care and social work. In order to form a meaningful picture about a child and families' journey/experience/outcomes a collective approach to data collection would be required across services. The Promise are currently conducting a mapping exercise which should form part of any considerations with regard to the data that should be collected and its purpose. We would also consider that meaningful data collection would map onto children's rights as set out within the UNCRC so that the upholding of all of these rights can be monitored. Any legislation or requirement would need to comply with human and children's rights, including individual's right to privacy, and data protection legislation. HERE

Q.13-15: Complaints and putting things right

The [UNCRC General Comments 12](#) (2009, p.5) state, "The views expressed by children may add relevant perspectives and experience and should be considered in decision-making, policymaking and preparation of laws and/or measures as well as their evaluation." How children will be enabled and supported and encouraged to actively have their voice heard particularly where they feel that they have not received appropriate services or responses must be embedded. It is unclear where the voice and views of children has been gathered or considered in the development of the current consultation. This is particularly important for children and groups of children who may face additional discrimination and marginalisation such as children in conflict with the law, children with disabilities, and care experienced children including with experience of secure care, with the recognition that some children may be in one or more of these groups. A new system for complaints must take into consideration the needs of children to voice their opinions, to ensure this is done in a manner that recognises the inherent power imbalance children face by their very status as a child. There should be provision of clear pathways and simple processes by which children can raise issues and complaints that take into consideration speech, language, and communication needs, are trauma-informed, provide access to independent support to do so, and opportunity for resolution and consideration of the issues raised either by or on behalf of a child or group of children without formal complaint being required. They must be able to appeal any decision and where a child or children do not agree their issues have been heard or addressed, they must be aware how to progress any concerns or complaints or choose to raise a formal complaint at any point should they wish. A separate ombudsman or body that deals with complaints should be considered to reduce potential perception that complaining will result in unfair treatment and not being acknowledged.

Transparency, feedback of outcomes following complaints in a manner that the child or children can understand must be a matter of course and clear steps should outline how the child or children's concern are going to be addressed. Where a complaint has been made this should in all cases be evaluated as to whether there has been any infringement upon rights and addressed immediately. This is not just in relation to children's services but in recognition that children may cross several different areas of service as noted and all must ensure their complaints processes are fit for children's voices to be heard and responded to. There should be a clear pathway for children to appeal any decision or outcome from a complaint which they make.

National Care Service

Q.19: Do you agree that Scottish Ministers should be accountable for the delivery of social care, through a National Care Service?

CYCJ is supportive of changes in approaches to the provision of services that promote the upholding of children's rights; better outcomes for children, young people, their families and communities; and that are in children's best interests. As such we would want any changes to:

- Ensure all services and systems promote and uphold human and children's rights;
- Recognise the distinct needs and rights of children, including those children, young people and young adults in conflict with the law, and those who are in or on the edges of, or with experience of secure care. This must include children's rights to participate in decisions that may affect them throughout these decisions and at an individual, collective and strategic level;
- Enable all children, young people and their families to receive the holistic and proportionate support they need, when they need it, from the range of agencies and services that are best placed to provide this and in a cohesive, coordinated manner as necessary;
- Develop a consistent language, principles and practice approach across children's services and justice services for children 'in conflict with the law',
- Streamline service criteria and access to care and support to reduce complexity and the risk of children falling between services - for children in conflict with the law this often includes children and families versus justice; children and families versus adult social care; and social care versus health;
- Aid the ability of individuals to move across and access supports from different parts of this system, reducing the challenges of making transitions between and across services, including from children to adults services;
- Promote and support partnership working with agencies both within and outside social work and social care, including education, health, community justice, education, and those universal, specialist and third sector agencies that support prevention and early intervention;
- Ensure that individuals and groups who often have extremely complex needs but are smaller in numbers, for example children in conflict with the law, in or on the edges of secure care, or in custody are not, as youth justice has been in many areas, deprioritised and marginalised. These children must retain the necessary resource and position in the face of competing demands;
- Increase consistency of approaches and reduce the "post-code lottery" of service provision, whilst enabling sufficient local responsiveness and delivery to local needs, strengths, priorities and assets, with local decision-making and accountability;
- Improve information and record sharing, including enhancing the use of technology to do so and the ability of different information systems to speak to each other across systems, to reduce the harmful impacts of people repeatedly needing to tell their story and of failures to share information. This must however be done in a proportionate legal manner that complies with human and children's rights and data protection legislation;
- Support understanding of need, locally and nationally, through the provision of good quality, common and readily available data, that enables decisions

about service provision to be evidence-based. Local and national feedback loops are important;

- Continue to value and include those with lived experience, building on the principles of the Promise and participation, engagement and coproduction activity undertaken thus far;
- Strive towards and achieve continuous improvement of services, based on evidence and the experiences of those using services, within an enabling context for change and learning culture;
- Build on existing improvement activity and support the implementation of the Standards that have recently been developed for [those working with children in conflict with the law](#) and the [Secure Care Pathway and Standards Scotland](#);
- Contribute to the achievement of existing visions and priorities such as [Justice for children and young people - a rights-respecting approach: vision and priorities](#);
- Value staff that are well trained and have access to the support they need, when they need it, including tailored and specialist support to meet the needs of the individuals they are working with;
- Have a strong, shared multidisciplinary “national values framework” ([Independent Care Review, 2020](#), p. 99) at heart of the system.

As such the NCS could provide opportunities in ensuring every person can benefit from the above. There is a broad acceptance within the social care and social work sector that change is needed - which is evident in for example the acceptance of the recommendations from the Independent Care Review and transformational change journey Scotland is currently on across services including childcare and justice. We would however offer the following caveats:

- There is a lack of detail throughout the consultation on how the NCS would look and function in practice and therefore how it could achieve the espoused benefits.
- The recommendation for the establishment of a NCS was based on the evidence and rationale included within the IRASC. For all those services that were not part of this review, including children and families and justice, our two core areas of interest, we would welcome further information on the rationale and evidence base for their inclusion and how the NCS would improve outcomes for people who use services in these groups. This should include what has worked or otherwise to date; different models being used across Scotland; and analysis of the risks of either inclusion or exclusion of these services, including any potential unintended consequences. This is essential if the unique considerations, nuances, and realities of practice and the implications of the NCS across different areas are to be understood. National and international learning, evidence and research will be important in informing these discussions. There are pertinent and distinct considerations for each area of the sector as detailed below.
- Many of the potential benefits of the NCS outlined in the consultation could potentially be achieved by the NCS. However, we believe more information is needed about the evidence base for this, what alternative options have been considered and why the NCS is preferable to these alternatives. It may be that the stated benefits of the NCS are not necessarily exclusive to this approach,

and may well be achievable through a range of alternative measures. However, it is unclear how far these have been considered.

- There are various challenges with existing and newly formed national services such as the National Health Service, Police Scotland, Scottish Fire and Rescue Services, and the Scottish Prison Service. Across individual health boards, prisons and forces, the services that are provided differ across areas, establishments and forces. Arguably, the very issues that the NCS seeks to address - issues with inconsistency, that care and support is not portable, bureaucratic and top-heavy approaches, complex landscapes of service provision, obstacles to smooth access and transitions, lack of benchmarks and standards, and differing interpretations of shared visions - remain. We would welcome greater understanding of how the NCS will address these challenges, many of which are detailed in the consultation as benefits the NCS could achieve. We also believe the production of evidence of a similar change having been successfully adopted elsewhere may lead to greater confidence in this change achieving its desired ambitions.
- People whom the proposed changes will affect - those who use, work in, and manage - the spectrum of social care and social work services must be involved in any decisions and the subsequent implementation of change. We note the differing approaches taken by both the IRASC and that of the Independent Care Review as reflected in the form and function principle (Duncan, 2021). This particularly includes the views of those who use services out with the adult social care system - not least children on the cusp of or in conflict with the law and in or on the edges of secure care - in determining future change. We need to know more about how such change would be experienced; would the NCS result in a more streamlined process of accessing care and support, throughout the system, from the range of professionals and services who require to be involved, and easier transitions across different parts of this system, or would it make it even more difficult for services, some within and some out with a NCS, to be accessed? A future NCS (or other change) must include spaces and opportunities for those in receipt of services and with lived experience of the conditions in question to shape and influence the service, throughout its planning, development and ongoing running. This not only respects and upholds rights but will improve the service overall. As detailed above, there are various examples of service user involvement and co-production with children and young people with experience of the care and justice system, learning from which could be shared.
- We need to ensure change is not change for change's sake and needs to be about more than restructuring. Restructuring, relocation, changing accountability and centralisation will not in itself bring about the above change in practices and result in better outcomes for people. Breaking down of silos and organisational boundaries, greater communication, co-location, joint training and shared objectives would appear to be more likely to achieve effective collaboration. Fundamentally services and supports need to be properly resourced. We also need to understand what the evidence-based vision for the NCS as a whole and for all services that will be included is.
- The scale of change that is being proposed is huge. While the impact of the pandemic affords opportunities, cognisance also needs to be taken of the significant detrimental and destabilising impact this has brought and continues

to bring. This is particularly true given the significant and detrimental impact of the pandemic on children (see for example [CYPICS, 2020](#)). We also need to recognise the ongoing COVID-19 recovery work and the risk to the workforce of the further introduction of such significant structural changes at this time, which bring risk of attrition and in turn, destabilising operational delivery. We would welcome greater understanding of the costs of such proposed change and where such resource will come from. It will be crucial that wellbeing is safeguarded, rights are promoted, voices are heard and quality service provision is maintained during any such change.

- Significant change and improvement work to create radical and transformative change is already underway particularly within children and families' services and the justice system. This is important both in terms of the context that this change is being proposed within, but also in terms of the importance of not losing what is working well and positive progress that is or has been made. Within this context, it may prove even more organisationally challenging to undertake such systemic change to the structures which are already charged with significant responsibility of implementing the conclusions of various reviews and legislative change.
- The timescales proposed in the Programme for Government for legislating the service is tight. Although this is understandable, there is a lot of work to do to address the significant questions stakeholders have in respect of the proposals. For those services that were not included in the IRASC, we would suggest further engagement; review to understand the issues and challenges being faced; thorough exploration and appraisal of and consultation on the full range of options to address such issues; understanding of the recommendations of previous reviews and reports; and detail of what the NCS would look like for these groups and risks and opportunities is necessary.
- When we talk about the inclusion or exclusion of services, now or later, there are benefits and risks of either approach, meaning this presents real dilemmas and balance. It is crucial that careful consideration is given for the impact on individuals who are supported across various systems. There is a very real risk that access to services becomes even more difficult, within a more fragmented landscape and a service level risk that the focus and investment in improvement and workforce capacity is skewed toward those services which are part of the NCS.
- It would appear that there is a lack of representation within the steering group which will shape the future NCS from those who have experience of the childcare or justice systems. This raises concerns over the future direction of the NCS, and may well lead to a system being created which fails to take cognisance of the views of those who have lived experience of these worlds. Were an NCS to be created, this oversight would have to be addressed.

In addition, specifically in respect of the accountability of Scottish Ministers, this is another area in which further information would be welcomed. All provision by the state should be accountable to an individual minister or group of elected representatives in the interests of participation and democracy. Were a NCS to be created, we would hope that a position within Cabinet would be created, thus allowing greater lines of accountability. We would however welcome greater clarity regarding the parameters of the NCS and precisely what Ministers would be accountable for. In particular how will local democracy, accountability, decision-

making and service provision will continue to be upheld, alongside the provision of national coordination, oversight and accountability. The fit between existing local and national duties for accountability and reporting as detailed at greater length in others responses, such as CELCIS and Social Work Scotland, requires further information. We believe one risk is that adoption of a centralised approach to health and care services may lead to an overly bureaucratic and top-heavy approach, which reduces personalisation and local approaches, and fails to respond to the particular needs of groups within populations, including those populations that are smaller in number. Another risk would be a geographic bias towards those in the central belt of Scotland and/or larger local authority areas.

Scope of the National Care Service

We request this section is read alongside our response to Question 19

Children's services

Q.22: Should the National Care Service include both adults and children's social work and social care services?

As detailed above, CYCJ is supportive of any development that improves support to and outcomes for children and young people. We welcome the recognition of the interconnects of social work and social care. We recognise that the provision of children's social work and social care services is inextricably linked to that for adults. We also recognise that children are part of families, often requiring support in their own right, grow into adults (at times requiring services through this transition or subsequently) and that the provision of holistic family support is a key component of the Promise. Therefore, the principles of adult social care, children and families social care, justice and health being aligned makes sense.

It is clear that systemic approaches are necessary to achieve effective outcomes for children and young people on the cusp of, or in conflict with the law, and those children who are in or on the edges of secure care. The children's social work landscape is hugely complex, with the position of children in conflict with the law and youth justice a particular example of this. These children are some of our most vulnerable, victimised and traumatised and are usually supported across systems-childcare, welfare, child protection, the Children's Hearings System, youth justice, criminal justice, public protection, children's services, adult services, adult protection, education and health - often simultaneously. The location of this support also covers a wide range of settings: at home, in kinship care, foster care, the community, residential care, hospital settings, secure care and custody. Often, and rightly so given that contact with the youth justice system is ironically the biggest factor in whether someone will continue offending, these children are supported by services out with social work and social care ([CYCJ, 2016](#)). This includes universal services - education and health; third sector partners; specialist services such as CAMHS and addiction services; housing; employability and training. With such an array of services involved, complexity in accessing services and the risk of falling between services is real for children. A similar picture is echoed for children in or on the edges of secure care. If the NCS could support addressing these challenges and improving consistency - not just of service provision but of data, benchmarks, performance and outcome measures - this would be beneficial. However, if one or

more of these sectors are included in the NCS and others are out with, there is a potential risk that these children become even more excluded, marginalised and transitions made even more difficult. There are also real risks to partnership working. Furthermore, we would also draw attention to the caveats outlined previously and in particular expand that children's services were not part of the IRASC. Crucially Scotland has had a root and branch review of the care system through the Independent Care Review. This review examined every aspect of a child's contact with the formal and informal parts of the care system, hearing from more than 5,500 people, over half of whom were children and young people with experience of the 'care system', with a significant volume of research amassed. This did not recommend the creation of an NCS. The position of the Promise Scotland on whether the NCS could help Scotland to Keep The Promise will be an important one. Various other reviews and inquiries have made recommendations in respect of children and justice services and again it is important full cognisance is taken of the implications of the NCS in respect of these.

We would also welcome further detail on:

- The exploration of the alternative options, including how GIRFEC arrangements could be improved - for example, would further resource yield the benefits hoped for by the NCS?
- The experiences of integration and IJBs where children's services (health and social work) have and have not been integrated - what was the rationale behind this, what have been people's experiences including those using services, what are the consequences both positive and negative, and what does this offer the evidence base for change? This would support evidence-based policy making if these structures are to be replaced. For example, in 2015 North Lanarkshire Council integrated Children, Families and Justice Services under the auspices of the Chief Accountable Officer of the Health and Social Care Partnership with a requirement to review the scheme in five years. Three years later, based on having a fully organisational spanning service, Children, Families and Justice Services were aligned with education. Potential lessons learned from this review include:
 - Impact on professional relationships when terms and conditions of colleagues differ (Health and Social Work);
 - Greater need for promotion of Social Work identity given small numbers of Social Work staff in comparison to health;
 - Supervisory relationships possibly not meeting needs of Social Work staff if managed by health professional (and vice versa);
 - Workforce and organisational development to support changes.
- How the NCS will improve outcomes for children, the upholding of children's rights, and the position statutory intervention and child protection. If children's social work and social care services are to be included as part of the NCS, it is crucial that the distinctive needs, rights and protections for children, including those in conflict with the law, secure care and the criminal justice system, are considered in detail, recognised and upheld.
- Understanding of how this change fits with other significant transformational and radical changes and improvement programmes that are underway in the childcare sector. Scotland is fundamentally re-shaping how it responds to the needs of it's babies, children and young people and change has already been

committed to. There is significant momentum, change, improvement and progress underway and made over the last 18 months in respect of The Promise, in preparation for UNCRC incorporation, to implement the Secure Care Pathway and Standards Scotland and [Standards for Children in conflict with the law](#), and adopt a rights-respecting approach to justice for children and young people through the vision and priorities and [action plan](#). Aligning planned and ongoing change - change that it is important to note has been driven by children and their families' experiences and voices and that has been committed to them - may be challenging and it is important this is not hindered, stifled or lost within any structural change.

- How services are commissioned and profit. The Promise (2021, p.111) has stated that “Scotland must avoid the monetisation of the care of children and prevent the marketisation of care. Scotland must make sure that its most vulnerable children are not profited from. There is no place for profiting in how Scotland cares for its children”. We therefore question the role of the private sector with the NCS; the role that third sector, voluntary and other not-for-profit services may play in the future; and broader questions regarding commissioning of services, and the allocation, shift and resourcing of the NCS as a whole.
- The positioning of secure care within the NCS. Secure accommodation is among the most intensive and restrictive “alternative form” of care available to children in Scotland, whereby children up to age 18 are detained in a locked care setting, through the Children’s Hearings System or justice system, due to the level of concern about risks of, or actual significant harm, their behaviours pose to themselves and/or others. Secure care aims to provide intensive support, care and education to keep these children safe and to meet the extremely high levels of need and vulnerability experienced by them. Robust regulations and requirements are in place, aimed at ensuring children are only placed in secure when and only for as long as absolutely necessary, and that they receive appropriate transition support during and following secure care. The [Secure Care National Project](#) undertook a review of secure care from 2015-2018, making various recommendations for change and improvement which has informed activity to date. Subsequently, various inquiries and reviews have made recommendations regarding the future of secure care, including the [Justice Committee](#), [the CYPCS](#) and The Promise. Significant activity is underway to progress this and respond to these recommendations, which must not be lost. Secure care has a national framework via the contract between Scotland’s local authorities and Scottish Government with the four independent charitably ran organisations, with the contract managed by Scotland Excel. It should however be noted that the Justice Committee (2019, p.38) concluded: “...the Committee remains unconvinced that this is a viable model beyond the current contractual period (which ends in March 2020). The Committee calls on the Scottish Government and COSLA to look at alternative models, such as national commissioning or the use of blockfunding of places”. We know activity is underway in exploring such models, and it is crucial that this feeds into any discussions on the NCS. Secure care has its own [quality framework](#) for inspection by the Care Inspectorate and the Secure Care Pathway and Standards Scotland aim to bring consistency to approaches to children in or on the edges of secure care. There is experience

from this sector in co-design, co-production, and improvement, not least in the Secure Care Pathway and Standards, that can be shared.

- The interface between the NCS and crucial partner agencies outside this such as the Children's Hearings System and courts.

Q.23: Do you think that locating children's social work and social care services within the National Care Service will reduce complexity for children and their families in accessing services?

For transitions to adulthood

It has been well established that support for children transitioning to adulthood, and in particular from children's to adult services is particularly complex, and that this is an area where change is needed. It would appear this is true whichever children we are discussing - children with disabilities, care leavers including children leaving secure care, and children in conflict with the law. Scotland has recognised from the evidence on brain development that the brain is not fully mature until mid-20s and that psychosocial and cognitive development continues up to age 25 (and possibly even beyond) ([McEwan, 2017](#)). As a result, it has been concluded that, child and youth justice rationale and functions should extend to the young adult age group because of psychosocial immaturity (McEwan, 2017). In recognition of this the current Scottish Government Youth Justice Vision and Priorities advocates for the extension of the WSA, Scotland's policy framework to children on the cusp of, or in conflict with, the law, to those beyond the age of 18, providing access to support up to age 26 where possible and appropriate. Similarly, the forthcoming [Sentencing Council guideline](#) on sentencing young people, subject to the High Court's approval, will apply to the sentencing of all those under the age of 25 at the date of their plea of guilty or when a finding of guilt is made against them. All of this indicates that Scotland understands the needs of young adults are distinct and that additional support to those in conflict with the law in their transition to adulthood is necessary.

The evidence indicates that children with care experience (especially those looked after away from home) "are more likely to have been reported to police - and therefore to attract a criminalising state response - than Scotland's child population in general" ([Scottish Government, 2018](#), p.13). Moreover, research consistently highlights that care leavers are more likely to be involved with the criminal justice system, with 46% of the young people responding to the Scottish Prisoner Survey in 2017 reporting being in care as a child ([Cameron, Broderick, & Carnie, 2017](#); [Scottish Care Leavers Covenant, 2015](#)). In recognition of the need for more gradual transitions and enhanced support to care leavers in their transition to adulthood, the duties on corporate parents to care leavers extend up to (and including) the age of 25 under the [Children and Young People \(Scotland\) Act 2014](#) in order to uphold the rights and safeguard the wellbeing of these young people and young adults. Via our involvement with the Scottish Care Leavers Covenant, we recognise that this is a policy area where the implementation gap is particularly acute. We would however signpost to consultation responses by CELCIS, STAF and Who Cares? Scotland as particular experts in this area.

Through our role in providing practice development support, we are well versed in the "cliff-edge" of support as children transition on from children's services and from placements, such as secure care. The detrimental and at times catastrophic

impact of this was vividly highlighted by children during the secure care national project ([Gough, 2017](#)), the [Talking Hope](#) project (Miller and Baxter, 2019), and in the development of the Secure Care Pathway and Standards which have a specific section of Standards after a child leaves secure care. Such challenges can be compounded by the variations in age thresholds, including in how we define a child in Scots law, and within and between agencies. We have also written at length about the challenges children face in transitioning from being supported in the welfare-based Children's Hearings System to the adult court system and how children can be more appropriately supported (see for example our Bail and Remand research). We are acutely aware of the inconsistencies that exist within and between different local authority areas and the challenges that many young people face when moving from one local authority to another. This often results in debate between the two authorities for some time over who holds responsibility for providing care to that child, young person or family, and can occasionally lead to a breakdown in provision.

While a wealth of evidence exists on what can make transitions successful and effective, this indicates that there is a gap between this and children and young adults' experiences in practice (see [CYCJ, 2021](#); [CYCJ and ARC Scotland, 2021](#)).

This is an area of practice where a NCS could address these challenges and the changes that CYCJ would hope for if pursued through the provision of a unitary, NCS as detailed in Question 19. We would however reiterate the caveats detailed above, in particular regarding the lack of detail on how this would impact on children and young adults, their outcomes and rights, alternative options for improvement, existing improvement work, and the views and inclusion of children transitioning into adulthood.

For children with family members needing support

Children exist within families and even if not residing with their families, have the right to the maintenance of relationships. Where children and their family members need support it is important this is coordinated.

As detailed above, the acceptance of the recommendations of the Independent Care Review by the Scottish Government and work currently being undertaken to keep The Promise has provided all services working with children and families with a mandate for fundamental and transformational change calling on provision of care that embraces risk, and is child and family centred. The Promise also concluded that whole family support should be developed, with the following features:

- Community Based
- Responsive and Timely
- Work with Family Assets
- Empowerment and Agency
- Flexible
- Holistic and Relational
- Therapeutic
- Non-Stigmatising:

- Patient and Persistent
- Underpinned by Children's Rights

We would welcome further detail on how the NCS could achieve this and whether it would be likely to provide the aforementioned components of care than existing services are. The Promise also concluded that a range of regulatory provisions may need to be revisited and reformed in order to create the risk-embracing practice landscape that is desired. A NCS may be better placed to address this than the individual local authorities at present, particularly if responsibility for the NCS was held by a specific Cabinet Secretary. A singular NCS may have greater political sway amongst stakeholders, and thus be better positioned to contribute to this development. We would welcome further detail.

Q.25: Do you think there are any risks in including children's services in the National Care Service?

In addition to the information contained above, again we would draw attention to our points detailed under question 19, we offer the following expansions:

- For all services, if the NCS does progress and some parts of the sector are not included, there is a risk that the focus and investment in improvement, ambition, planning, development and workforce capacity becomes skewed towards those services which are part of the NCS. If certain services are included and others excluded, there is also a risk that the landscape of services becomes more cluttered, further fragmented and difficult to navigate system. This would be of further detriment to those who access services.
- Conversely if children's services are included in the NCS there is the risk that as adults make up a larger part of the social care system, a situation likely to increase as the population ages and hopefully fewer children come into the care system as The Promise is kept, that adult services are prioritised. This would make it even more difficult for children and families to access supports. In doing so, for specific groups of children within children's services who are small in numbers - including children in conflict with the law or in secure care - it may become even more difficult. Since the establishment of Police Scotland, it has not been possible to access a national breakdown of the recorded crimes or offences alleged to have been committed by children due to the crime recording systems used by Police Scotland having no facility, whereby the age of the accused at the time of the offence can be easily extracted ([Murphy, 2021](#)). Where children are alleged to have committed an offence they can be referred to the Scottish Children's Reporter Administration (SCRA) on offence grounds. In 2019-20 there were 2,840 children referred on offence grounds. Information on Criminal Proceedings in Scotland is published on an annual basis. The 2019-20 report provides statistics on criminal proceedings concluded in Scottish courts as well as on a range of measures available as alternatives to prosecution issued by both the police and Crown Office and Procurator Fiscal Service. In 2019-20, 7,236 children received non-court disposals and 1,208 children were proceeded against in court. On any given day, most of Scotland's 84 secure care beds are full, albeit owing to the lack of available data, we do not know further details on these children, including the basis of their placement (for example if

through the Children's Hearing System or courts), how many of these children have been placed from out with Scotland or the needs of these children. During each month in 2021, on average there has been between 16 and 21 children under 18 held in Young Offenders Institution, with at any one time over 75% children being held on remand. This is a comparatively small population but is made up of children who are experiencing often highly complex needs and extreme risks and vulnerabilities in their lives. As the number of children in conflict with the law has reduced, in many areas of Scotland youth justice has been deprioritised and struggled to retain the positioning and resource these children require in the face of competing demands. As such we have already seen the loss of attention and focus of specialisms such as youth justice, with only around one-third of local authorities retaining a specialist social work youth justice team. Whilst statutory work and child protection will always require to be prioritised, it is crucial that with any changes that the NCS brings, youth justice is not further subsumed and marginalised.

- The inclusion of children's services (which have yet to be fully defined in the consultation) may prove a risk to the delivery of localised, bespoke services which meet the needs of some groups. Current provision within each of the 32 local authorities allows greater flexibility to deliver local, bespoke, tailored services. We recognise the risks of centralisation, including the deviation away from crucial community-based services, loss of flexibility, adaptability and involvement of voluntary organisations which is far less stigmatising than would be the case under NCS intervention. National services are less likely to afford those using them the opportunity to influence and shape its direction and form. Whilst current provision allows for an agile and localised response, the centralisation - with the inherent bureaucracy that this may bring - could result in minority groups being overlooked whilst the NCS strives to deliver a consistent service across the country. Current arrangements do however result in consistency.
- Furthermore, inclusion of children's services within the NCS may weaken the existing relationships between education, health and children and families social work services, assuming that those services are not included in the NCS. If children's social work was to be included in the NCS - but school and children's health not to follow suit - then the informal and formal relationships which have been developed over years may suffer, thus posing a challenge to child protection, communication and partnership working.

Social Work and Social Care

We request this section is read alongside our response to Question 19

Q.31: What do you see as the main benefits in having social work planning, assessment, commissioning and accountability located within the National Care Service? (Please tick all that apply.)

As detailed in the review, social work is critical in the planning, commissioning, provision, delivery, monitoring and review of social work and social care services for children, adults and their families. Social work is by its very nature, a whole system activity. All of the benefits detailed in the consultation could come from the inclusion of social work within the NCS but again we would link to the

caveats as detailed in Question 19. We would expand that none of these benefits are a given - they will require significant support, leadership, infrastructure and resource. We also know there are very real challenges facing social work and social care in terms of recruitment and retention of staff, skills, training etc and we would welcome further information on how the NCS could address these and what “location” would really mean in practice.

Q.32: Do you see any risks in having social work planning, assessment, commissioning and accountability located within the National Care Service?

There is a risk of losing the unique social work identity that the profession has worked hard to build. For all disciplines it will be important that the unique contribution, knowledge, expertise and skills they bring is not lost in the NCS. There is also the risk of further fragmentation if social work as a whole or parts of social work and social care are not included within the NCS, resulting in those within the NCS gaining more priority and attention and leaving others at risk. The splintering of the social work profession could weaken this, resulting in a less effective service and supports to those who require them. Any dilution of social work values or move to generic social work teams would be a risk and backwards step. As detailed elsewhere, we have heard about the challenges including loss of prioritisation, knowledge, skills and experience for the workforce and services to children in conflict with the law resulting from the loss of dedicated youth justice teams and incorporation within other teams where other priorities dominate; for example child protection within children’s and families teams.

Justice Social Work

We request this section is read alongside our response to Question 19, 22 and 25

Q.36: Do you think justice social work services should become part of the National Care Service (along with social work more broadly)?

As detailed elsewhere, the omission of justice from the IRASC and subsequent inclusion in the NCS consultation, makes it difficult to make an informed, evidence-based and confident decision based on the information available. We would highlight the changes we want to see for the children we work with, as well as the caveats related to the NCS as detailed in Question 19. We would also signpost to the consultation responses from Youth Just Us, Social Work Scotland, Community Justice Scotland and the National Youth Justice Advisory Group.

In respect of justice services, including justice social work (JSW), we would highlight that significant work is underway via the WSA to ensure that wherever possible children in conflict with the law are diverted from the criminal justice system and instead that their needs are met through universal services, children and families social work and the Children's Hearing System. This is based on the understanding that children’s needs can be more appropriately met out with the justice system and the risks of involvement with the system (CYCJ, 2016). The success of this approach is evident with a 75% reduction in children referred to the Children’s Reporter on offence grounds, an 85% reduction in the number of children and young people prosecuted in Scotland’s courts and a 93% reduction in 16 and 17 year olds being

sentenced to custody in the last 12 years (Scottish Government, 2021). As detailed under Q.22, the spectrum of services that support children on the cusp of or in conflict with the law, not least universal services, prevention and early intervention support, and third sector partners usually sit outside JSW. This is particularly the case in respect of Early and Effective Intervention and Diversion from Prosecution. In many areas, third sector and voluntary organisations coordinate support and deliver interventions, and as such we would welcome further information on their position within the NCS. If the NCS could improve consistency and links to universal services then this could be beneficial. In particular, improved links with public health services could be beneficial in progressing the adoption of a public health approach. We need to exercise caution that this does not result in the medical dominance of social issues with structural routes.

However, too many children continue to enter the justice system. As detailed above, in 2019-20 1,208 children were proceeded against in court, with 57 sentenced to custody. We know that these children often do not experience justice in the true meaning of the word and that significant change is needed (Lightowler, 2020; [CYCJ, 2019](#)). As the consultation notes, a large number of people who come into contact with the justice system have a wide range of often complex needs, requiring a holistic approach to their care and support needs, across services. For children and young people in conflict with the law the same applies. There is a wealth of evidence that children involved in a pattern of offending, or who are involved in more serious offences, are almost always our most vulnerable, victimised and traumatised young people (CYCJ, 2016). Experiences of abuse, neglect and trauma; adverse childhood experiences; loss and bereavement; traumatic brain injury; mental health needs; learning difficulties and disabilities; and SLCNs are all too common (CYCJ 2016; 2019). As detailed elsewhere care experienced children and young people are overrepresented in the justice system, including the prison population, and are disproportionately criminalised. There is therefore a fundamental connection between social work and social care and support, which it would be beneficial to improve.

For children who enter the justice system, the picture of where social work support comes from (i.e. from children and families, youth justice or justice) varies. Achieving consistency of access to services has been a struggle under the WSA, with each of the 32 local authorities operating differently, and the services children require, for example in transitioning from secure care or custody to the community, often being out with the control of social work services. There are also some partners for whom engagement in the WSA has been more challenging to secure. We would welcome further information on how the NCS could engage and work more constructively with partners within and out with the wider justice system, who are key partners in achieving change and improving outcomes. Through whichever system or service children are supported, the provision of bespoke, tailored, holistic and proportionate interventions and package of support are key. We would welcome further information on how this will continue to be afforded and if possible improved via a unitary NCS.

Significant work has also been undertaken to establish a rights-respecting justice system for children and young people through the Scottish Government's Rights-respecting approach: vision and priorities, and to establish standards for children in conflict with the law and in or on the edges of secure care. If minimum standards

were to be introduced as part of the NCS, there could be valuable learning to be shared from these approaches, but work will also be needed to align these visions and standards.

Q.37: If yes, should this happen at the same time as all other social work services or should justice social work be incorporated into the National Care Service at a later stage?

We do not understand why justice services would be staged and incorporated at a later date. If all social work services are to be included, then why would some be staged? This should however only be after full assessment and analysis of the rationale and evidence base for the inclusion of JSW in the NCS; how the NCS would improve outcomes for people who use services; what has worked or otherwise to date; outcomes of other reviews; and the risks of either inclusion or exclusion of these services, including any potential unintended consequences.

Q.38: What opportunities and benefits do you think could come from justice social work being part of the National Care Service?

Again, please see caveats as detailed in Question 19. We believe that social work as a profession should not be split up and fragmented. Service users within the justice system could also be accessing other parts of social work, or their families may be. Having two separate organisations will not benefit service users. The key question is whether the benefits of the inclusion of justice social work outweighs this risk.

Q.39: What risks or challenges do you think could come from justice social work being part of the National Care Service? (Tick all that apply)

In expanding the points detailed in Question 19 and 25, we would add the following information:

- Risk of either marginalisation or being subsumed: As detailed in the consultation and other responses, the current configuration of community justice has been the result of various reviews, although it is recognised JSW is only one part of community justice. Community justice is more than JSW, with collective responsibility to improve outcomes and prevention a key part of this. The introduction of ring-fenced funding and National Outcomes and Standards for JSW is the result of previous experiences of the marginalisation of justice within social work - this is a real risk if justice social work is not included in the NCS and it is important this is not repeated. Conversely, there is a risk that JSW is subsumed and deprioritised by the focus on adult social care (or other included services).
- Justice, like children's services was not considered as part of the IRASC and although there are inherent links with adult social care as detailed elsewhere, there are significant differences. Much of JSW is statutory and services are often imposed on the service user, rather than being requested and negotiated. There is also a punitive element of JSW and the justice system, which may be at odds with a care system. Further information is necessary on how the NCS would support and work with public protection to ensure that we continue to protect and support people at risk of harm.

- As with children’s services, significant change and improvement work is underway within justice services. This includes that focused on the COVID-19 recovery. Community Justice Scotland has a key role within such activity. It is important that this, as well as what is working well, is not lost with any changes that may come with the NCS, whether justice is included or excluded.

Q.39: Do you think any of the following alternative reforms should be explored to improve the delivery of community justice services in Scotland?

All options should be explored. Justice was not included in the IRASC and while there have been reviews, assessments and reports into community justice services and JSW, further work is needed to synthesise this information to identify what is working well, where change is needed, how a NCS could do so, what has been tried previously and alternative options. We also know that there are resource, capacity and financial challenges facing JSW which it is important are explored and taken cognisance of in the progressing plans surrounding the NCS. Until the issues/problems with the current arrangements are highlighted, evidence provided as to what will address these issues, and options for change identified, then in our view, an informed decision cannot be made. We would welcome being involved in further discussions and the development of proposals for change, alongside other key stakeholders.

Prisons

We request this section is read alongside our response to Question 19, 22, 25 and 36-39

Q.42: Do you think that giving the National Care Service responsibility for social care services in prisons would improve outcomes for people in custody and those being released?

While the number of children and young people in custody is low, the level and complexity of need presented by these children and young people is high and requires distinctive attention (CYCJ, 2021). Work is currently ongoing to remove children from the adult justice system and from custody through actions under the Youth Justice Vision and Action Plan and to support Scotland to Keep the Promise. Work is also ongoing to implement the significant findings from the Expert Review of Mental Health Services for young people entering and in HMPYOI Polmont. This work needs to continue and to be supported through any changes made to include Justice Social Work and Prisons within the NCS or any alternative changes.

Overall we know that the outcomes of prison are poor. Ultimately Scotland needs to reduce our prison population through work to prevent offending happening in the first place; seeking to divert those who come into conflict with the law from the justice system as far as possible; enhance support to those who do enter the system; the provision of more and better community alternatives so fewer people enter custody, while improving access to service and supports, and ultimately outcomes, for people in custody. All of these are key elements of the WSA, with the key question being: will the creation of the NCS, or indeed some other reform, achieve this? Again, we would point to the caveats detailed in Question 19 in our inability to answer this

question.

As detailed elsewhere (see questions detailed above), children in conflict with the law and involved in persistent or serious offending, these being those children and young people who are most likely to end up in custody, are some of our most vulnerable, disadvantaged, excluded and traumatised (CYCJ, 2021). These children will often have already faced multiple adverse experiences, including abuse, neglect, household dysfunction, moves of home and school, community violence, loss and bereavement, and associated trauma, with these pre-existing vulnerabilities and disadvantage often exacerbated with the additional experience of being deprived of their liberty ([Armstrong & McGhee, 2019](#); [Vaswani & Paul, 2019](#)). The mental health and wellbeing needs of children and young people in custody were clearly articulated in the Expert Review of Mental Health services and accompanying literature review. This found that these children have heightened risks and needs compared to young people outside of prison, higher rates of suicide in custody and also higher rates of factors associated with self-harm and suicide including depression, anxiety disorders, psychotic symptoms, ADHD and more (Armstrong & McGhee, 2019). In addition, many children in this population experience physical health needs, such as speech, language and communication issues (with 75% to 90% of children in custody estimated to have SLCN); head and brain injuries; learning disabilities; and have substance misuse problems, often as a means of self-medicating and to manage the impact of traumatic experiences in their lives (see CYCJ, 2021). This echoes and extends the findings around the social care support needs of Scotland's prison population, as cited in the consultation document.

In planning and providing throughcare support to children during their time in custody and on leaving custody, the evidence indicates that support in respect of housing; education, training and employment; health and substance misuse; family involvement and financial stability, should be included (CYCJ, 2021). Ensuring the provision of such throughcare support and transitions has been identified as a particular challenge, with reintegration and transitions a key domain of the WSA. Whilst progress has been made in ensuring children are supported by their home local authority and contact is maintained throughout their period in custody and on release, with various good examples of partnership working between local authorities, SPS and third sector partners and of the range of services that are made available to children, the following challenges have been identified:

- Often children's needs have not been identified, assessed or addressed and therefore no support has been given to these children, instead they are labelled as having "challenging behaviour", prior to entrance to custody (see CYCJ, 2021). Such needs are often identified and assessed while a child is in custody, and it is important that the window of opportunity this time can provide is utilised.
- Accessing holistic and integrated support throughout a child's time in custody and that continues on their return to the community.
- Ensuring the availability of a range of services tailored to each child's needs and that these can be accessed by all children, including those on remand, and within the context of COVID-19 ([See CYCJ, 2020](#)).
- Challenges of partnership working, particularly in ensuring all key partners are engaged and with a 'constantly changing landscape' of service provision,

funding arrangements and varying availability of services across local authorities.

- Lack of consistency in application of processes nationally including connection between court professionals/social work/YOI to ensure appropriate information that is shared timeously and accompanies the child throughout this part of their journey through justice.
- Geographical issues which impede maintaining contact and developing relationships and links between a child or young adult's home supports and services looking to support their transition from custody.
- Wider system issues which - although crucial to supporting children - are out with the criminal justice system and/or social work and the challenges of coordinating such supports. Housing is a particular example.
- The impact of "broader structural constraints arising from poverty and socio-economic disadvantage" which can impact on children's actions and limit their choices and ability to change (Gray, 2011: 235). Failure to recognise this results in the individualisation of social need.
- Differential policy and legislative framework and service provision for those children who turn 18 while in custody and increased recognition of the distinct needs of 18-25 year olds in the justice system.
- The need for resourcing that includes capital in both financial terms and workforce capacity as well as knowledge and skills.

These are key areas that it is important any change to the provision of services, be this via the NCS or other reform or approaches, seeks to address to ensure an individual's rights are upheld and they receive the best possible services to promote positive outcomes. Moreover attention to partnership working and relationships with services outwith the NCS should social care services in prisons be included would be key, particularly with housing given the significance of accommodation as a basic need, that so many other supports hinge on, and in terms of desistance (CYCJ, 2021). We have also previously expressed concerns about access to [healthcare in prison](#) and note - as detailed in the consultation - that significant work has been undertaken including the responsibility for healthcare in prisons transferring, to understand the social care support needs of people in custody, and pilot projects. All of these developments will have yielded significant learning and progress, which should be incorporated into future change and not lost.

There may be a further opportunity here to improve the support to children affected by parental imprisonment through the inclusion of social care services in prisons in the NCS. The need for improvement to support to meet the needs, and uphold the rights of, these children and their families has been repeatedly identified, most recently by the Independent Care Review. Again, further exploration of how the NCS could support this is warranted.

Mental Health Services

We request this section is read alongside our response to Question 19

Q.51: What elements of mental health care should be delivered from within a National Care Service? (Tick all that apply)

It is well established that the population of children and young people involved in more serious or chronic offending behaviour are some of our most vulnerable young people in terms of their social, educational, emotional, physical and mental health needs, and the poor outcomes associated with these vulnerabilities. Whilst there is limited research on the mental health needs of children and young people in conflict with the law in Scotland, this is growing ([Dyer & Gregory, 2014](#); [Mental Welfare Commission for Scotland, 2014](#)).

A study examining the mental health needs of a sample of children referred to the Interventions for Vulnerable Youth (IVY) service found that on average children, although not formally diagnosed, displayed symptoms of four psychiatric disorders per child, with 64% of children displaying four or more. Symptoms of attachment disorder (92%) and post-traumatic stress disorder (75%) were overwhelmingly represented in this group ([Murphy, 2018](#)).

CYCJ's work has also found a significant population of children within secure care who have both diagnosed and suspected mental health conditions, often coexisting alongside other complex needs including exposure to Adverse Childhood Experiences, poverty, community deprivation and exposure to other challenging circumstances ([Gibson, 2021](#)). This evidence is extended by the [Justice Committee \(2019\)](#).

In supporting children with these needs, various challenges are faced. These include lack of agreement regarding roles and responsibilities and challenges in accessing the full spectrum of mental health and wellbeing supports children require (Justice Committee, 2019). There are numerous examples where children cannot access mental health support due to their difficulties being 'social' and social work facing difficulties in helping reduce these 'social' behaviours due to there being elements of mental health difficulties involved ([Scottish Government, 2018](#)). Children require both services to be able to work together collaboratively, not an either or ([CYCJ, 2017](#)). A particular example of the "postcode lottery" of service provision could be access to CAMHS, with the report on CAMHS by Audit Scotland ([2018](#)) noting several key concerns around current CAMHS provision including the system being complex, fragmented, and access to services varying throughout the country. Health board boundaries play a particular role and this is a particular challenge for children in secure care (Justice Committee, 2019).

These children need access to support that is holistic and relationship-based, which proactively engages with children and young people in a manner that best suits them. They require access to a full spectrum of support from preventative and early intervention to specialist and acute services. They do not need the barriers to support that arise from siloed working and criteria-based access. The need for

significant mental health supports - allied to comprehensive community-based, systemic support based on the principles set out in The Promise - is clear. Social work and care and CAMHS need to be able to work much closer together to meet the needs of children, particularly those on the cusp of, or in conflict with the law and those children in or on the edges of secure care. The NCS may support this. However regardless of the vehicle that is chosen to govern the delivery of services such as addiction, mental health and housing, the most important criteria when considering their configuration is whether it meets the needs of those in receipt of the service, upholds children's and human rights, and whether it helps make progress toward achieving the conclusion of The Promise.

National Social Work Agency

We would request this section is read alongside our response to Questions 1 and 2.

Q.53: What benefits do you think there would be in establishing a National Social Work Agency?

Efforts to bring all of social work together, that allows them to speak with one voice, celebrate achievements and promote the value of social work, that allows social work identity to be reclaimed and pushed would be welcomed. This could help understanding and recognition of social work; to articulate social work ethics, values, voice etc.; and promote parity of social work with other professions. In addition, enhanced consistency of and for social workers such as in terms of pay, terms and conditions and grading could be beneficial. The provision of leadership, coordination, enhanced support and a stronger voice for the profession overall could be beneficial. It is important that there is representative leadership from across different areas of practice, including justice leadership within this too. We would welcome further information on how the National Social Work Agency could achieve this.

Q.54: Do you think there would be any risks in establishing a National Social Work Agency?

As detailed elsewhere, we would be concerned that specialisms like youth justice are lost, given the size of this population, within a National Social Work Agency. Moreover, by focusing just on social work, there is a risk of greater siloed working and this could present additional barriers to partnership and multi-disciplinary working, which as detailed elsewhere is so critical. Social work and social care are distinct, with social work-its position and functions-unique and complex, as recognised in the legally enshrined role of the Chief Social Work Officer. We would be keen to know more about how this position would fit in the proposed changes. Social work does not just include social workers but also a range of other professional roles such as residential carers and para-professionals who are integral to social work roles being fulfilled. Again we would welcome further information on their position in respect of the National Social Work Agency. This range of social work practitioners fulfil a diverse range of roles, across statutory and third sector organisations, as well there being social workers who are no longer practicing but retain registration whilst working in other settings such as Higher Education. We would welcome greater understanding of how such an Agency would support and benefit such diverse roles, approaches and skills. It is also important to explore other

potential unintended consequences - for example, at present differing pay and conditions may be a method of ensuring social workers take jobs across Scotland and should this be removed, there could be potential recruitment issues.

The creation of a National Social Work Agency would not necessarily improve standards of practice amongst the workforce, and it is unclear what relationship would exist between it, and the existing SSSC. Many of the stated functions of the NCS overlap and align with the current activity of the SSSC, although it is noted social work now represents a [small section](#) of the total workforce registered with SSSC, so we would be keen to know more about this interface. Similarly, we would be keen to know more about the interface with Social Work Scotland; BASW/SASW; the Care Inspectorate; Universities offering qualifying and post-qualifying social work qualifications and CPD training; and UNISON/other unions representing social workers.

As detailed elsewhere, if created, the National Social Work Agency should work closely with the range of other agencies who are involved in supporting improvement work and the workforce across distinct areas of practice and centres for excellence including CYCJ, CELCIS and IRISS. This would ensure the knowledge, skills, expertise, approaches and learning built is recognised, functions are not duplicated, and the landscape of support to the profession is not further complicated. These centres should not be subsumed into any new agency, including a NCS or National Social Work Agency, to retain their independence, specialist knowledge and support functions to the workforce, and benefits of co-location within the University of Strathclyde. As detailed above we are as always keen to continue to join up working with all other agencies that support improvement and professional including social work.

Q.55: Do you think a National Social Work Agency should be part of the National Care Service?

The consultation proposes that the National Social Work Agency should be established, alongside a centre of excellence for applied research for social work to support improvement activity (see Improvement), as part of the NCS infrastructure and inextricably linked to wider planning and improvement activity. As detailed in the section on improvement (Q1-2) Scotland currently benefits from various centres of excellence that support social work practice, contribute to continuous professional development and provide training including CYCJ. There is value in these centres being based in a University and not within a National Agency, to ensure some autonomy and independence, and the ability for difficult questions or issues raised by children, young people, their families and practitioners can be discussed at a senior Government level. This also has important implications for the credibility of the centres, with professionals and those with experience of using services. For CYCJ, our position within the University of Strathclyde and having a dedicated focus on research, allows applied practice research to be undertaken, supports the links with relevant research within the University as a whole and particularly within the School of Social Work and Social Policy, and knowledge exchange activities. CYCJ's work is relevant to more than just social work and social care and shows the cross-over again in areas of social work. As detailed in Questions 1 and 2, examples of this working in practice include activity in respect of trauma, bereavement and loss, the

criminalisation of looked after children, bail and remand, secure care and children's rights. We would reiterate our view that the loss or dilution of dedicated specialist knowledge and support to sections of the workforce would reduce the quality of service and support that those individuals who receive these services can benefit from. We would welcome further information on the additionally afforded and the interface between existing centres of excellence and the proposed National Social Work Agency and centre of excellence for applied research for social work.

Developing an additional centre that focuses on any current gaps for example in adult and older people social work practice may be one way to address this issue. This would allow the knowledge and expertise within the current centres of excellence to continue, the marginalised groups they support to continue to benefit, and support offered to the development of an additional centre, with networking, shared learning and collaboration between these. Any further resource to continue to build and develop what existing centres do would be welcomed.

If there is to be a National Social Work Agency, CYCJ would welcome the consideration of it being an independent body. Thereby independent of the proposed NCS and of Scottish Government. As the proposals for the NCS include direct service commissioning and delivery, being independent would allow the leadership and operational delivery of the National Social work Agency to be fully centred on the profession of Social Work and separate this out from any political or resource considerations. This would also allow better links to independent centres of excellence.

Training and Development

We would request this section is read alongside our response to Questions 1 and 2 and 53-55

Q.91: Do you agree that the National Care Service should set training and development requirements for the social care workforce?

The focus on the skillsets specific to social work and social care support, and links to equivalent developments of the health workforce, with the more effective linking of the Scottish Social Services Council (SSSC) and NHS National Education Services Scotland (NHS NES) to Scottish Universities and Colleges and working more closely as detailed in the review is welcomed. We would welcome further information on how the National Social Work Agency would interface with these agencies. There may be benefits from the greater coordination of pre and post qualifying training and the provision of a further conduit to learning and development for the social work and social care workforce. This may promote greater consistency of training and development but the significant risk is that diversity would be reduced. If children's services are included in the NCS, it is important that existing and previous plans and reviews of training and education are taken into account, for example in respect of residential childcare. There are implications here in terms of The Promise regarding workforce development and scaffolding support. The Promise concluded that Scotland must create a working environment where those looking after children are provided with the best possible training and education. The Independent Care Review (2020, p.96) stated "Scotland must develop a new way of thinking about our workforce, from definition, learning and training, and recruitment through to

supervision and retention”. Support, training, opportunities for reflection, and nurturing of the workforce to enable professionals to best support families is key.

CYCJ is one of numerous agencies who provide training and development support to the children’s social work and social care workforce across a range of issues, the content of which is shaped by our ongoing assessment of need and gaps in workforce training. This is provided through a variety of mediums. It includes national conferences (such as the National Youth Justice Conference); lunchtime webinars; skills training; roadshows tailored to meet the local needs of practitioners across Scotland; risk assessment training; facilitation of workshops; practitioner forums.

We have also developed a [Postgraduate Certificate on Children & Young People in Conflict with the Law](#) to meet the gap in provision identified by practitioners and managers. Surveys of the workforce found overwhelming support for such a postgraduate certificate to support the upholding of children’s rights, improved outcomes and service and policy development. This postgraduate course is due to commence in January 2022 at Strathclyde University, delivered by CYCJ. There is additional potential for a MSc pathway. Such support has continually been identified as necessary, particularly in the context of the loss of dedicated youth justice teams and the broader recognition of the range of professionals who constitute the youth justice workforce and support children in conflict with the law.

The opportunities we provide for training and continued professional development stretch wider than the social work and social care workforce, recognising the need to “support a model of a workforce learning together” (Independent Care Review, 2020, p, 107). We support partners from a range of agencies/services including for example the police, solicitors, third sector, health, education, judiciary, and the Children’s Hearing System. The multi-agency nature of the continued professional development opportunities we provide is a key strength in developing partnership working, understanding of each other’s roles and responsibilities and improvements in practice. For example, over a two year period we trained a total of 440 staff in one specific training course alone (START:AV).

These staff were from 31 local authority areas (social work, social care, police), three secure care centres, six third sector organisations, the National Health Service and the Risk Management Authority. The varied intensity and depth of the continued professional development opportunities we provide also ensures we meet the needs of a range of professionals depending upon their specific roles, responsibilities and level of knowledge and skills required.

We also provide dedicated practice development support to those who need it, from advising on individual cases to service and organisational level development. Should children’s services be included as part of the NCS we would be keen to discuss our continued role in the provision of training and development for the workforce, given our specific expertise on children in conflict with the law and children in or on the edges of secure care.

The ability to provide training, support and continued professional development

across boundaries be these professions, geographies or themes is crucial. CYCJ alongside a number of other agencies currently do so with it crucial this is not lost if focus is limited to social work and social care. We also welcome the current range of sources of learning, training, development opportunities and teaching. The creation of a singular body which both designs the training needs of the organisation and delivers the services itself may lead to a myopic, blinkered view. Instead, it may prove worthwhile to take advantage of teaching and learning inputs from a wide range of sources.

Q.92: Do you agree that the National Care Service should be able to provide and or secure the provision of training and development for the social care workforce?

Regardless of the body that provides training, it is important that the training adheres to the conclusion of The Promise so that the implementation of learning is also supported in practice. The Promise stated: “Providing adequate time for effective, flexible, day to day and more regular structured support, supervision and reflective practice is vital in caring for the workforce so that they can care for others. It supports the development of a workforce that can manage risk in a relational rather than a process driven way and feels safe to practice even in challenging circumstances. Scotland must ensure the provision of properly trained supervisors” (Independent Care Review, 2020: 100).

It is unclear how existing training courses provided by the Higher Education sector would operate under the NCS proposals. More detailed information is required so that this can be considered more fully. For example, there are some roles within the proposed NCS that they would not (immediately) be able to deliver the required level of training or qualification for; amongst these are Mental Health Officers and Social workers. In relation to these roles an ongoing relationship with the Higher Education sector, which reflects upon the changing nature of practice, is necessary.