

**PUBLIC SERVICES REFORM (SCOTLAND)
ACT 2010: SECTION 112(1)**

**GUIDANCE ON DUTY OF USER FOCUS
FOR LISTED SCRUTINY AUTHORITIES**

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1 - INTRODUCTION

1.1 Section 112 of the [Public Services Reform \(Scotland\) Act 2010](#) (the Act) requires scrutiny authorities listed in schedule 19 of the Act (“listed authorities”) to make arrangements which: (a) secure continuous improvement in user focus in the exercise of their scrutiny functions and (b) demonstrate that improvement.

1.2 In fulfilling this duty, section 113 of the Act makes provision for listed authorities to have regard to the following guidance provided by the Scottish Ministers. Arrangements made to enable fulfilment of the duty should have regard to the five principles of scrutiny described in the **Annex A** to this guidance, namely: public focus, independence, proportionality, transparency and accountability.

1.3 The guidance provides a framework approach to help listed authorities comply with the duty of user focus - recognising that authorities will need to apply the framework in a way which is appropriate to their specific kinds of users. A shared framework will, however, encourage more consistent approaches and build on the good practice already in place in many of the listed authorities.

1.4 In fulfilling the duty listed authorities must also have regard to “proper arrangements” for the purposes of section 112(1). These “proper arrangements” may be by reference to a generally recognised published code or otherwise - for example an organisation’s own codes of practice on user focus or professional codes or sectoral guidance on best practice which encourage user focus. If there is a conflict between this guidance and these proper arrangements, this guidance prevails.

1.5 The duty is intended to ensure that there is greater involvement of users in scrutiny to improve the targeting of scrutiny and contribute to its increased effectiveness, efficiency and relevance. This will contribute to user-driven improvement of services. Further detail on the intended benefits of fulfilling this duty is provided at **Annex B**.

1.6 In this guidance, scrutiny includes:

(a) “regulation”: meaning the provision of a permit to carry out regulated activity, enforcement of legislation and regulations, monitoring the quality of services provided and, if the context requires, may include elements of service inspection and other activity designed to drive up quality and/or enforce standards; and related activity;

(b) “audit”: meaning the external scrutiny of corporate governance and management; financial statements and underlying financial systems; and performance, performance management and reporting of public authorities; and related activity; and

(c) “inspection”: meaning the targeted scrutiny of specific services to check whether they meet national and local performance standards, legislative and professional requirements, and the needs of service users; and related activity.

2 - ARRANGEMENTS TO SECURE CONTINUOUS IMPROVEMENT IN USER FOCUS

Identify users

2.1 Listed authorities should have a clear, written description of who they consider to be a service user. The people for whom scrutinised services are provided will be the key user group in each sector. Listed authorities will be best placed to judge on a sector-by-sector basis who is in this key group. However, listed authorities should be aware that the definition of “user” provided in section 112(4) of the Act also includes potential users, people who act on the behalf of service users and people with a direct interest in the provision of the service or the scrutiny of it.

Involve users in scrutiny governance

2.2 To ensure ongoing success in driving continuous improvement in user focus, listed authorities should have in place a user involvement strategy which should be publicly available. Development of the strategy should involve users and it should make clear:

- a) the listed authority’s role;
- b) who the listed authority considers to be by a service user;
- c) a commitment from the listed authority to involve users at all levels and in scrutiny activities;
- d) how users can expect to engage with the listed authority;
- e) how the listed authority promotes opportunities to become involved to service users; and
- f) the listed authority’s policy on any remuneration to users for their involvement.

2.3 Where possible, service users should be involved in the governance mechanisms and processes of listed authorities to ensure that organisations take full account of the user perspective in all of their activities.

2.4 Listed authorities with a Board may, for example, consider including a service user or, where more appropriate, a user representative as a non-executive member. Listed authorities should also consider establishing a forum for service users which has a clear remit to feed directly to the Board or to the Chief Executive or Chief Inspector, as appropriate, on strategic or corporate issues affecting the listed authority.

Involve users in the design of scrutiny

2.5 Listed authorities should engage directly with service users as early as possible when developing future plans of activity.

2.6 Listed authorities should involve service users in the design of relevant scrutiny. Service users should be consulted in the design stage or be represented directly in the decision making process – perhaps through their presence on a Board or through other ways such as being represented through a relevant forum.

2.7 Listed authorities should consult or involve service users in the evaluation of scrutiny, to ensure the user experience and user satisfaction is taken directly into account when scrutiny is being evaluated in order to inform any redesign.

Use feedback from users to inform scrutiny

2.8 In targeting their scrutiny activity, listed authorities should ensure that they routinely take into account the feedback which service users give to service providers. This feedback may include findings from user surveys, user groups or discussion sessions undertaken by service providers as a means of directly hearing the views of users.

2.9 To help inform assessments of services, listed authorities should also engage directly with service users where appropriate through accessible meetings, workshops, networking events or information sessions. User feedback derived through analysis of complaints will also help listed authorities to focus on areas of concern to service users.

2.10 Listed authorities should work with relevant service providers and complaints authorities such as the Scottish Public Services Ombudsman to ensure that mechanisms such as those described in paragraphs 2.8 and 2.9 are in place which enable them to access the type of user feedback which can then be used to influence scrutiny focus and service improvement.

Involve users in carrying out scrutiny

2.11 Listed authorities should involve users in carrying out scrutiny. For example, listed authorities should consider engaging service users or user representatives as “lay assessors” (the appropriate title for this type of role is a matter for each listed authority), where appropriate, and should consider establishing user panels to provide evidence and views prior to inspections and then to validate or comment on scrutiny reports as appropriate.

2.12 Listed authorities should engage appropriately with service users – recognising the need to use a wide range of communication and engagement techniques which meet the needs of the full range of service users.

Make reports on scrutiny clear and accessible

2.13 Listed authorities should work together to devise common language and gradings to ensure that service users and others with an interest in any service can more easily understand assessments and reports. Common language and grading is particularly important for those users interested in a scrutinised service, such as those provided by local government which are subject to scrutiny by more than one of the listed authorities.

2.14 Reports should be written in plain language and in a style which is appropriate for service users, recognising that some reports need to include technical or complex sections. Unless there are exceptional circumstances, listed authorities should also provide a short, plain English summary of their key findings.

2.15 Reports and findings on scrutiny need to be as accessible as possible. Existing best practice suggests listed authorities should consider adopting some or all of the following approaches:

- (a) Reports or findings should be shared in full or in summary with all relevant and interested groups – individuals, representative authorities and associations, and where appropriate with the Government and the Parliament;
- (b) Where appropriate, reports or findings should be publicised and made available by the listed body and by the scrutinised organisation - in hard copy as well as on the Internet;
- (c) Listed authorities may wish to consider using other innovative means of effective communication which could draw the attention of service users to scrutiny reports, such as texting, social networking, mail shots or public notices.
- (d) Listed authorities could consider setting up a forum involving relevant users to ensure that the style of their scrutiny reports is fit for purpose and is easily understood.

Involve users in improvement activity

2.16 Listed authorities with an identified role in providing and monitoring relevant improvement arrangements for service providers should encourage service providers as far as possible to take account of the service user perspective in developing and undertaking service improvements.

3 - ARRANGEMENTS TO DEMONSTRATE CONTINUOUS IMPROVEMENT IN USER FOCUS

3.1 Listed authorities should consider how best to measure their success in achieving continuous improvement, including capturing the perspectives of service users, those who contributed in the areas described in this guidance and service providers. For example, listed authorities could consider using forums, events or

questionnaires to gauge whether their activities have been recognised by users and providers as improvement in user focus.

3.2 Where possible, listed authorities should provide timely feedback to all those who participate in scrutiny (whether in governance, design or carrying out scrutiny) about the impact which has been made as a result of their collective input.

3.3 Listed authorities which do not already do so should consider including coverage of their improvement in user focus, such as evidence of impact, benefits and outcomes, in their annual business plans, in Annual Reports and on their websites. Where authorities already report on public participation or user involvement or other related activities it may be useful to add something to those which makes clear the link between existing good practice and the duty of user focus.

4 - COMPLIANCE WITH THE GUIDANCE

4.1 The Scottish Ministers will expect listed authorities to comply with the approaches outlined in this guidance and to actively demonstrate compliance. At a minimum, relevant listed authorities will be expected to incorporate information demonstrating their compliance in their Annual Reports. Authorities may consider additional means of demonstrating compliance.

4.2 Where a listed authority does not comply with this guidance, the Scottish Ministers may require it to provide a written explanation of why it has not done so and may publish this explanation. This requirement is set out at section 113 (subsections 6-7) of the Act.

4.3 The Scottish Ministers may also issue further guidance from time to time about the duties imposed by section 112 and will keep this guidance under review in the light of experience.

**Scottish Government
November 2010**

PRINCIPLES OF SCRUTINY

The duty of user focus is in line with the five core principles of scrutiny:

Public focus	The needs and priorities of service users and the public must be the prime consideration in all external scrutiny. The public is the ultimate beneficiary of external scrutiny. As such, it is crucial that it is closely involved in both decisions about the use of scrutiny and any scrutiny activity.
Independence	External scrutiny must be independent and must not be constrained by any party in reaching its conclusions and publishing its findings. It must be free to make judgements about service delivery and report its findings into the public domain, and it must be able to decide how it discharges its responsibilities, once its focus has been agreed.
Proportionality	The use of external scrutiny within the wider public accountability system must be proportionate to the particular issue, policy context or environment. Proportionality must apply at two levels. Firstly, in deciding whether it is appropriate to use scrutiny, and secondly in deciding its nature, scope and duration.
Transparency	External scrutiny must be transparent in all its activities, its focus, decision making criteria, business processes, assessments and reporting. There should be a transparent decision framework for regulatory intervention. It is essential that the processes and mechanisms which support the use of external scrutiny are transparent, so that all parties understand the particular purpose for which it is being used at any given time. For external scrutiny to be credible, its reports must be clear, independent and consistent.
Accountability	External scrutiny must be accountable for its use of resources. It must demonstrate and report on the impact of its activities on services scrutinised, on the direct and indirect cost implications and it must demonstrate value for money. Its assessments and findings must be fair and capable of being defended.

Source - [*Independent Review of Regulation, Audit, Inspection and Complaints handling of Public Services in Scotland*](#)

BENEFITS OF CONTINUOUS IMPROVEMENT IN USER FOCUS

1 - For users:

- (a) More opportunities to become involved in all aspects of scrutiny, for example involvement in the governance of listed authorities and in helping to design and carry out scrutiny activities;
- (b) Scrutiny which takes more account of the user voice and is likely to be more effective, provide greater public assurance and be more likely to lead to service improvement through being influenced by user experience and views;
- (c) Reports which are more accessible and easy to understand;
- (d) Opportunities to feed into forums to comment on whether reports are comprehensible and fit for purpose;
- (e) Clear evidence in Annual Reports or by other means of how listed authorities have engaged users in their activities.

2 - For scrutinised services and organisations:

- (a) External scrutiny which is more proportionate and better targeted on the services areas which mean most to the service user;
- (b) Listed authorities mirroring the imperative which key scrutinised services already have to involve users in the planning, delivery and evaluation of services;
- (c) More support and encouragement from listed authorities to include the service user perspective in all their improvement activities;
- (d) Greater coordination and consistency in how services are marked or graded by different listed authorities – leading to a more easily understood scrutiny system.



**The Scottish
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