

PROPOSALS FOR PRESCRIBED INFORMATION TO BE INCLUDED IN THE INTEGRATION SCHEME RELATING TO THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

CONSULTATION QUESTIONS

1. Do you agree with the prescribed matters to be included in the Integration Scheme?

Yes

No

2. If no, please explain why:

However, there are a number of areas which require further detail as follows:

1. With reference to the inclusion in Column A of the Schedule of "*Plans for workforce development*", this seems to involve details of general operational management which goes beyond the tone and purpose of the legislation which was for the Joint Board to provide strategic direction. The development and support of staff is the legal responsibility of the relevant employer and not that of the Joint Board. The Council does not consider that this should be prescribed information.
2. Whilst the inclusion of information on audit, accounts and complaints management is reasonable, there is still work ongoing to establish best practice and guidance in these areas and therefore the Regulations should not be prescriptive in relation to this. With specific regard to insurance, there is still national work ongoing in this area, and it should not be expected that full details be provided in the Integration Scheme. Is there an expectation that in the future, there will be one risk process, as at the moment and at the outset of integration, this would not be practical given the differing interests involved?
3. With regards to finance, there needs to be more clarification on audit arrangements and expectations with regard to this and also how accounts are to be prepared for the Joint Board
4. The reference to a schedule of payments is not necessary as there will not necessarily be cash payments made to the Board at regular intervals (or at all) as per IRAG Guidance issued earlier this year

3. Are there any additional matters that should be included within the regulations?

Yes

No

4. If yes, please suggest:

There should be a separate heading to cover quality assurance and quality management. Although some of this will be covered by the sections relating to clinical and care governance, there could be an opportunity through integration to look at how existing quality assurance systems and approaches could be integrated. This could build on the work of the Care Inspectorate and the recently developed quality indicator framework for adult health and social care

5. Are there any further comments you would like to offer on these draft Regulations?

None at this stage

PROPOSALS FOR PRESCRIBED FUNCTIONS THAT MUST BE DELEGATED BY LOCAL AUTHORITIES RELATING TO THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

CONSULTATION QUESTIONS

1. **Do you agree with the list of Local Authority functions included here which must be delegated?**

Yes

No

2. **If no, please explain why:**

There are some areas which require further clarification regarding the scope of what is included as follows:

Social Work (Scotland) 1968 Act

The Council would wish to make specific comments in respect of this:

- that it should be made clear that any statutory guidance issued applies to an Integration Joint Board or Authority just as much as a local authority. This would require amendments to Section 5 of the 1968 Act (*duty to discharge functions in accordance with central government guidance*).
- Also Section 5B of the 1968 Act refers to local authorities arranging a procedure to handle complaints about services. Some of this may still appropriately remain with local authorities as direct provider of services but what about complaints regarding the allocation or spending of the budget which the Joint Board may direct? This would no longer be in the control of the local authority and would it not therefore be inappropriate for it to be handled by the local authorities complaint process?

Adults with Incapacity (Scotland) Act 2000

The Council would wish to make specific comments in respect of this:

- If Section 12 is to be delegated, which includes the duty to investigate and make application where necessary to the Sheriff, then it would seem both logical and necessary that Sections 53 and 57 which are the principal duties to make an application for intervention or guardianship where no one else is willing or able to do so should be delegated. There will still be a duty on a Mental Health Officer to produce a report which is a separate duty and applies to whoever makes the application.
- Guidance on how functions which are not delegated but may be of general application or be relevant to the discharge of those delegated would be useful.

The Council assumes the general principles of all Social Work legislation will apply to all persons or bodies and therefore do not require to be delegated but it may be helpful if guidance went into more detail of how this is going to work in practice with Joint Boards and the split between strategic decision making and the actual implementation of the legislation for instance with investigations or applications to court.

- Social Care (Self Directed Support) (Scotland) Act 2013 – with respect to Sections 1 and 2 these impose obligations on a local authority to have regard to certain principles, if this does not need to be specifically delegated then the Council would suggest that the Regulations need to make it clear that the Joint Board is to be equally obliged to follow the principles.
- Section 4 of the 2013 Act sets out the options for Self Directed Support. It provided for the making of payments or arrangements by the local authority. If these functions are to be delegated to the integration authority then it would seem logical and necessary that the integration authority also require to be referred to when the words “local authority” are used in this section so that the integration authority can delegate as appropriate.
- The Council would suggest the Section 2 of the Chronically Sick and Disabled Act 1972 should also be specified.
- The Council would also suggest that there are some sections of the Acts (such as Section 12 and Section 48 of the Adult Support and Protection (Scotland) Act 2007 which refers to the local authority not as having a duty to do something but as for example being a consultee) where the words “local authority” need to be either replaced with “integration authority” or be in addition to the words “ local authority” as it would no longer be the sole remit of the local authority to be consulted or to express a view.” The Council would suggest that where the words “local authority” are mentioned in legislation where it refers to a function delegated to an integration authority then the words “and/or integration authority” should be added in

Housing Support

Housing support – this requires further clarification by the Scottish Government i.e. does it include those attached to fixed accommodation or only floating support services. Also does this also include project activity which could be classed under the umbrella of housing support, for example supported accommodation initiatives for people with mental health problems and learning disabilities and also the whole issue of homelessness. It is not clear at the moment, what areas are meant to be covered.

Domestic abuse services

Does this include Women’s Aid refuge services?

Support Services

It is not necessary to include support services – different partnerships will determine their approach to support.

Governance and Direction

The Council had understood the integration authority would provide strategic direction rather than operational management of services – the regulations appear contrary to that.

3. **Are there any further comments you would like to offer on these draft regulations?**

No

PROPOSALS FOR REGULATIONS PRESCRIBING FUNCTIONS THAT MAY OR THAT MUST BE DELEGATED BY A HEALTH BOARD UNDER THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

CONSULTATION QUESTIONS

1. Do you agree with the list of functions (Schedule 1) that may be delegated?

Yes

No

If no, please explain why:

The scope of this from a legislative basis is extensive and from a local authority perspective could expose the organisation to additional risks which may not be easily mitigated. This particular point is expanded on below in considering Schedule 2.

2. Do you agree with the list of services (Schedule 2) that must be delegated as set out in regulations?

Yes

No

If no (i.e. you do not think they include or exclude the right services for Integration Authorities), please explain why:

From a local authority perspective the Council would have concerns regarding the breadth of health services included within the delegated functions. This potentially increases the financial risk that a local authority could be exposed to, particularly with regards to the more challenging and high demand areas of budgetary management which NHS Boards have to manage, with pharmacy/prescribing being a relevant example of this. The Council's understanding is that the Integrated Joint Board would accept responsibility for the strategic planning of services. It is our clear understanding that the operational management and financial responsibility for these services will remain with the Health Board. There are aspects of the draft regulations which could be interpreted as running contrary to the arrangements as understood by the Council.

3. Are you clear what is meant by the services listed in Schedule 2 (as described in Annex A)?

Yes

No

If not, we would welcome your feedback below to ensure it can provide the best description possible of these services, where they may not be applied consistently in practice.

The Council is not in agreement as there remains a disparity between the aspects of the Draft Regulation which potentially point to operational management and the Council's understanding of a joint working board providing strategic delivery.

4. Are there any further comments you would like to offer on these draft regulations?

No, as above

**PROPOSALS FOR NATIONAL HEALTH AND WELLBEING
OUTCOMES RELATING TO THE PUBLIC BODIES (JOINT
WORKING) (SCOTLAND) ACT 2014**

CONSULTATION QUESTIONS

1. Do you agree with the prescribed National Health and Wellbeing Outcomes?

Yes

No

If no, please explain why:

The Council would agree with the principle that there does need to be high level national outcomes that all partnerships are working to achieve. However, given the breadth of the outcomes statements, this will present a significant challenge in measuring progress in a meaningful way. Therefore, this will require careful consideration when developing supplementary measures which allow partnerships to track whether or not they are on course to achieve the national outcomes.

2. Do you agree that they cover the right areas?

Yes

No

3. If not, which additional areas do you think should be covered by the Outcomes?

The Council has some concerns with regards to Outcome 5 (inequalities). Whilst it makes absolute sense for there to be a focus on tackling health inequalities, it is again going to be extremely difficult to measure this, given the breadth of this theme/ outcome. Until the Council sees the framework which support the measurement of outcomes, it is therefore very difficult to envisage how they can be reasonably measured and subsequently compared across Scotland from the point of view of sharing best practice and learning from other partnerships.

4. Do you think that the National Health and Wellbeing Outcomes will be understood by users of services, as well as those planning and delivering them?

Yes

No

5. If not, why not?

This is by no means a negative response but it will require further information to be given to members of the public regarding the intentions behind the national outcomes as in most circumstances, users and carers will be more interested in their own personal outcomes. Therefore, partnership needs to find a way of tying up individual personal outcomes (for example Talking Points) with the higher level national outcomes for it to make practical sense.

6. Are there any further comments you would like to offer on these draft Regulations?

Further work should be done at a national level to define the measures which will be tagged to the outcomes (as indicated above). It is clear that organisations such as the Scottish Community Care Benchmarking Network could provide a valuable input to this.

**PROPOSALS FOR INTERPRETATION OF WHAT IS MEANT BY THE
TERMS HEALTH AND SOCIAL CARE PROFESSIONALS RELATING
TO THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014**

CONSULTATION QUESTIONS

1. Do you agree that the groups listed in section 2 of the draft regulations prescribe what 'health professional' means for the purposes of the Act?

Yes

No

2. If you answered 'no', please explain why:

Once issues regarding the full scope of services for inclusion are bottomed out, then it should be easier to confirm. For example managers, supervisors and house staff within school hostels would not come under the social care professionals that the Council would employ.

3. Do you agree that identifying Social Workers and Social Service Workers through registration with the Scottish Social Services Council is the most appropriate way of defining Social Care Professionals, for the purposes of the Act?

Yes

No

4. If you answered 'no', what other methods of identifying professional would you see as appropriate?

Consideration needs to be given to other professions employed within Social Work Services, for example Occupational Therapists, who will be covered by the relevant professional body.

5. Are there any further comments you would like to offer on these draft Regulations?

No

**PRESCRIBED FUNCTIONS CONFERRED ON A LOCAL AUTHORITY OFFICER
RELATING TO THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT
2014**

CONSULTATION QUESTIONS

1. Do you believe that the draft Regulations will effectively achieve the policy intention of the Act?

Yes

No

2. If not, which part of the draft Regulations do you believe may not effectively achieve the policy intention of the Act, and why?

Given the Council's comments in previous sections regarding further clarity on a range of issues for example strategic and operational management, further clarification of what is meant in and around the list of services to be included and the issue of the outcomes being too wide and potentially, it is difficult to say with any certainty that the Regulations will fully achieve the intentions of the Act.

3. Are there any further comments you would like to offer on these draft Regulations?

No, as above