



**SCOTTISH GOVERNMENT
CONSULTATION –
REGULATIONS AND ORDERS UNDER THE
PUBLIC BODIES (JOINT WORKING)
SCOTLAND ACT 2014**

RESPONSE FROM CCPS

About CCPS

CCPS membership comprises over 70 of the most substantial care and support providers in Scotland's third sector, providing high quality support in the areas of community care for adults with disabilities and for older people, youth and criminal justice, addictions, homelessness, and children's services and family support.

The combined membership of CCPS supports approximately 350,000 people and their families in Scotland; manages a total annual income in excess of £1.3 billion (2011-12), a significant proportion of which relates to publicly funded service provision; employs approximately 43,000 staff and mobilises the support of over 7,000 volunteers in providing services; works in all 32 of Scotland's council areas, with many members also providing services elsewhere in the UK and internationally.

CCPS welcomes the opportunity to contribute to the consultation on regulations under the Public Bodies (Joint Working) Scotland Act 2014.

Set 1

ANNEX 1(D)

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

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

Yes. As a basic template for the working relationship between the NHS and the local authority within the integration partnership, the list appears sensible and fairly complete.

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

Where integration partnerships include children and young people and/or criminal justice, we have a query about the degree to which the requirements as set out in these regulations need to prescribe any additional arrangements in order to accommodate the inclusion of children's services should a local area choose that route. For example, should there be some specific reference to how the children's services planning duties in the Children and Young People (Scotland) Act will fit with the requirement for strategic planning by integration authorities? Or possibly set out committee structures that will ensure that the integration board and processes take full account of other services included in the partnership? If the regulation is not the appropriate place for this, we suggest that the guidance should explain the relationship between these different legislative duties and how they will relate to each other.

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

We note the requirement to address plans for 'workforce' development but these are limited to the staff of the NHS and the local authority. Considering the significant proportion of services provided by the third sector workforce, we think there should be recognition and inclusion, both in the

regulation and in guidance, of the importance of that part of the workforce. Public bodies should be required to include the third sector in their workforce development planning, not least because of the benefits of sharing the knowledge and expertise many third sector staff have of working with both health and social care.

The same point is relevant to the information sharing and data handling requirement for an accord between the health board and local authority. There is no mention of any requirement to engage with the third sector, yet this will be an important aspect of the integrated partnership approach to supporting people that the Act aims to achieve. We understand there may be limits to what can be included in the regulation because legal duties can only be placed on statutory authorities. If that is the reason for the current drafting, we would ask that specific provision is made in the guidance for consideration of how information sharing and data handling systems and agreements will be designed to include and or facilitate partnership working with third sector providers of care, support and housing.

ANNEX 2(D)

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

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

Yes, in general. While the regulation describes delegated functions on the basis of the duties placed on local authorities under the different relevant pieces of legislation, we anticipate that the guidance will need to provide more detail on the types of services that fall within the integration authority's remit. Assuming this is the case, we want to highlight the importance of clear terminology in describing the different services that will be included in the integration partnership.

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

Yes. The regulation initially states that 'housing support, adaptations and equipment' be included within the scope of integration. The actual legislation then referred to in the regulation, however, does not reflect this. The inclusion of 'housing support' within the scope of integration would benefit from some clarification and we realise that this may be provided in the form of non-statutory guidance. The sort of 'housing support' referred to in the legislation cited in the regulation consists of assistance provided under social work legislation (section 12 of the Social Work (Scotland) Act 1968). The rationale for this is clear; it has become increasingly difficult to tease out care from support in terms of the commissioning, funding and delivery of services. Other sorts of housing support are not included in the draft regulation, for instance, the duty on local authorities to assess and provide for the housing support needs of homeless people. It is left for each individual integrated authority to decide whether or not to include this function within its remit. Whilst this could lead to inconsistencies of approach between local authorities, there would be scope for third sector housing providers to have a say on the creation of the integration scheme.

The Minister's desire to include housing adaptations in the integration of health and social care is well understood. Of concern, however, is that references to housing legislation go far beyond housing adaptations and relate to the local authority's strategic role to promote and provide housing as well as the power to provide repairs and improvement grants through a scheme of assistance. For more detailed submissions on this and other housing support related issues, please refer to the response provided by the Housing Coordinating Group.

ANNEX 3(D)

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

1. Do you agree with the list of functions (Schedules 1&2) that may or must be delegated?

We support the principle that the emergency care pathway must be included within the scope of integrated strategic planning, as part of the whole system redesign in favour of preventative and anticipatory care.

Children's services providers have raised a question about the inclusion of health visitors and whether this could cause unintended complications where children's services are not included in the integration partnership, because of the important role of the health visitor in early years support. Some of our members have developed this point further in their individual responses to the consultation.

ANNEX 4(D)

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

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

No.

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

We would like to make a couple of general points about the draft outcomes. We appreciate the difficulty of the task of putting them into legislation for the first time and the requirement for language that is clear and robust in terms of the legal obligations being placed on statutory authorities. Indeed, CCPS has been involved in the development of the outcomes over the past 18 months via representation on the outcomes working group, which had made solid progress on a form of words that reflected a more aspirational approach. However, we note the significant concerns of many providers and other organisations across the voluntary sector about the revised draft wording. Many of our partner organisations have provided detailed suggests for revised wording that reflect a range of concerns.

In addition to changes to the draft wording, another way to address many of these concerns about the practical interpretation of the outcomes would be to include a purpose clause that could be read alongside each outcome and set of indicators that would remind everyone of the purpose of integration in the context of wider public service reform – i.e. people and communities are more involved in the design and delivery of the services they need and the goal is better personal outcomes and experience of health and social care in their own lives. This could help address the concern of many providers that the outcomes as drafted may not ultimately further these goals.

It is also difficult to anticipate the potential impact of the draft outcomes without considering the indicators that will accompany each outcome. They are important because they will drive the response by public authorities to their outcomes requirements. Third sector colleagues are working to influence the development of the indicators that will be set out in guidance rather than in regulation. In addition to agreeing the most useful indicators, the data collection and reporting processes in relation to the indicators will be an important part of identifying progress and holding public authorities to account and we would expect the guidance to provide for a transparent and

accessible process. Importantly, we want to avoid a situation where indicators become the sole driver, to the exclusion of the bigger picture consideration of the overall aim of improving personal outcomes.

One final point that will be taken up in greater detail by children's services providers: some of the outcomes may not work as well in relation to children and young people. We would ask that the Scottish Government consider whether there may be scope for some redrafting to address this; alternatively, to include an explanation in the guidance of the relationship between the GIRFEC outcomes and SHANARRI indicators and the health and wellbeing outcomes, and the reporting requirements for each, where children's services are integrated.

ANNEX 5(D)

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

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, with the caveat that this will not cover some arrangements under Self-directed Support, (e.g. personal assistants), which remains an unresolved anomaly. In addition, we note the issues raised by our housing colleagues insofar as this definition may exclude some housing providers. The Housing Coordinating Group has provided further detail on this point.

ANNEX 6(D)

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?

No comment.

Set 2

ANNEX 1(D)

PRESCRIBED GROUPS WHICH MUST BE CONSULTED WHEN PREPARING OR REVISING INTEGRATION SCHEMES; PREPARING DRAFT STRATEGIC PLANS; AND WHEN MAKING DECISIONS AFFECTING LOCALITIES RELATING TO THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

1. Do these draft Regulations include the right groups of people?

Yes.

ANNEX 2(D)

MEMBERSHIP, POWERS AND PROCEEDINGS OF INTEGRATION JOINT BOARDS ESTABLISHED UNDER THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

1. Are there any additional non-voting members who should be included in the Integration Joint Board?

CCPS and many other third sector organisations strongly supported the inclusion of the third sector on the integration joint board and are pleased to see that reflected in the draft order, and that the definition of 'third sector bodies' explicitly includes non-commercial providers of health and social care. We also support the points made by the Housing Coordinating Group about the importance of including housing; and by some CCPS members about how children's services will be included and refer to the submissions of the HCG and Barnardo's for more detailed discussion on these issues.

One important practical question that remains to be settled is who the person representing 'third sector bodies carrying out activities related to health or social care' will be and how they will be chosen. The draft order indicates that they will be 'appointed' by the integration joint board. There needs to be provision for this in the guidance and it should say that this person will be chosen by the third sector and not imposed on it by the board, subject to the circumstance where no candidate is forthcoming.

ANNEX 3(D)

ESTABLISHMENT, MEMBERSHIP AND PROCEEDINGS OF INTEGRATION JOINT MONITORING COMMITTEES ESTABLISHED UNDER THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

1. Do you agree with the proposed minimum membership of the integration joint monitoring committee, as set out in the draft Order?

As above.

ANNEX 4(D)

PRESCRIBED MEMBERSHIP OF STRATEGIC PLANNING GROUPS ESTABLISHED UNDER THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

1. The draft Regulations prescribe the groups of people that should be represented on the strategic planning group. Do you think the groups of people listed are the right set of people that need to be represented on the strategic planning group?

Yes, as above.

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

We are pleased to see the inclusion of non-commercial providers of social care, social housing and third sector bodies carrying out activities related to health or social care. There remains a job to be done to coordinate and support effective engagement by these groups. The guidance should lay down some basic principles about the importance of this and the requirement for integration authorities to provide sufficient resources to enable it.

In addition, we would support the widest possible interpretation of the third sector group, to encompass and include that wider spectrum of third sector organisations that make a significant

contribution to community development and thus indirectly to health and wellbeing, but who may not see that as their immediate role or priority - the idea being that this should not just be about service provision but about the needs of the community as a whole and how they can be met by a diverse range of people and resources.

We also think the guidance should set a standard of best practice that includes the involvement of those responsible for education, leisure, and children's services (if not already included in the partnership) because of their key contribution to health and wellbeing.

ANNEX 5(D)

PRESCRIBED FORM AND CONTENT OF PERFORMANCE REPORTS RELATING TO THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

1. Do you agree with the prescribed matters to be included in the performance report?
7. Are there any further comments you would like to offer on these draft Regulations?

In our previous submissions on the development of this legislation we raised our concern that the Bill (now the Act) makes provision for outcomes but does not require integration authorities to achieve them (only to 'have regard' to them in integration and strategic planning processes). We are pleased to see that the regulations are quite prescriptive about what integration authorities must report on and that there are specific requirements to demonstrate the extent to which resources are shifting towards the more preventive end of the spectrum. However, we remain concerned that there is no mechanism to hold the integration authority accountable for a failure to achieve the outcomes or to shift resources.

We also note a concern among some providers about the use of the term 'institutional' in the consultation document's description of the extent to which resources are shifted. No definition of the term is included in the regulations, which makes it difficult to be sure exactly what it means. While we understand the spirit of the requirement to be about demonstrating the shift towards prevention, we do not want the term to create a bias (or incentive) in favour of moving people out of residential settings where that is the best option for them and, most importantly, where they have chosen to be there. We refer to and support the submission by Camphill Scotland on this point.

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