



**Response to Scottish Government Consultation:
Public Bodies (Joint Working) (Scotland) Act 2014 Regulations (Set 1)
August 2014**

About us

CELCCIS is the Centre for Excellence for Looked After Children in Scotland based at the University of Strathclyde. Established in 2011, CELCCIS has been committed to further improving the outcomes and opportunities for looked after children and young people through a collaborative and facilitative approach focused on having the maximum positive impact on their lives.

Evidence Review of Integration of Health and Social Care: Impact on Children and Young People

Under the Public Bodies (Joint Working) (Scotland) Act 2014, the primary focus is on the integration of adult health and social care; children's services may also be integrated at the discretion of local decision makers. Early indications of implementation suggest many children's services will be incorporated. Social Work Scotland [previously the Association of Directors of Social Work (ADSW)] commissioned CELCCIS and Children in Scotland to provide a series of reports on the potential effects of the Public Services (Joint Working) (Scotland) Act 2014 and the resultant integration of (adult) health and social care services on children and young people in Scotland and the services they use.

The first literature review highlighted a number of links between children and young people and adult services, either as service users themselves or as family members of service users.¹ We show how changes to adult health and social care services will have implications for four main groups of children and young people:

- For the increasing numbers of **young people transitioning to adult services** and their families it was noted that transition was an especially difficult time. This is a varied group with diverse needs. Earlier planning and collaborative person-centred approaches are reported to be helpful.
- High number of **care leavers**. These young people typically have poor outcomes across a range of dimensions. Support needs should encompass health, social and emotional factors as well as practical issues such as housing, education, employment and benefits. Not all entitled care leavers receive throughcare or aftercare.
- High numbers of **vulnerable children in the families of adult service users** are at increased risk of neglect or abuse. Providers of adult services can be instrumental in identifying and protecting these children through collaborative working with child protection services.
- For the increasing numbers of young carers it was noted that, despite competency in some areas, there may be significant support needs requiring input from diverse

¹ Welch, V, McCormack, M, Stephen, J & Lerpiniere, J (2014) *Integrating Health and Social Care in Scotland: Potential impact on children's service, Report One: Review of the Literature*, CELCCIS, Children in Scotland & Social Work Scotland http://www.celccis.org/media/resources/publications/Integrating_Health_and_Social_Care_in_Scotland.pdf (Accessed 24.06.14)

service types. Young carers often remain somewhat 'hidden', which further confounds their risk of poor outcomes through poor access to support.

Thus the review suggests that the integration of adult health and service care is likely to impact on various groups of children and young people. In many cases collaborative approaches have been shown to be helpful; these benefits will only happen if children and young people's needs are fully considered and factored into decision making at all levels. The integration of children's health and social care services shows promise; however, the evidence base suggests that outcomes are, as yet, untested or unclear. Similar drivers, challenges and concerns are cited for children's services as for adult services, with child protection often cited as the most fundamental driver.

Congruence with legislation for children and young people

In considering the Public Services Regulations, it is critical to consider the new legislative duties and subsequent implementation of the Children and Young People (Scotland) Act 2014. In particular, there should be clarity concerning the interaction of the new Integration Joint Boards with the Community Planning Partnerships given the legislative duties for reporting on outcomes for children. Specifically, there should be consideration of the legal status of the Integration Boards in regards to the new Schedule 4 related to public bodies that now have Corporate Parenting duties and responsibilities as set out in the Children and Young People (Scotland) Act 2014. Of specific relevance to the impact of integration, the Act includes:

- Duties on public authorities to report on children's rights as outlined in the UNCRC (Part 1)
- Duties on Children's Services Planning (Part 3)
- Provision of a Named Person and Child's Plan (Part 4 and Part 5)
- Duties of corporate parents (including health and social care) (Part 9)
- Provision of aftercare and continuing care for formerly looked after children (Part 10)
- Provision of services for children at risk of being 'looked after' (Part 12) and support for kinship care (Part 13)
- A new requirement to assess a child's wellbeing with reference to whether a child is Safe, Healthy, Achieving, Nurtured, Active, Respected, Responsible and Included (known as 'SHANARRI' indicators) (Part 17, s.95 and Part 18 s.96).

Furthermore, there should be consideration of the Social Care (Self Directed Support) (Scotland) Act 2013 and the proposed Community Empowerment (Scotland) Bill. In our response to the development of new Regulations, we highlight the interface between these new legislative duties and identify some opportunities and potential tensions.

We welcome further discussion on any aspect of this work.

Contact

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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:

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

Yes

No

4. If yes, please suggest:

We agree with the prescribed matters to be included in the Integration Scheme.

We welcome the opportunity to provide some additional commentary on the impact for children, young people and young adults. Firstly, the provision of the areas of inclusion in the integration scheme will have specific consequences for the interaction between adult and children's health and social care services (if they remain autonomous). Secondly, for those local authorities and health boards that choose to integrate children's services into adult health and social care there are greater consequences. Either way, this will have an impact on the current governance arrangements for public services for the child population. In particular, there should be clarity concerning the interaction of the new Integration Joint Boards with the Community Planning Partnerships. Specifically, there should be consideration of the legal status of the Integration Boards in regards to the new Schedule 4 related to public bodies that have Corporate Parenting duties and responsibilities as set out in the Children and Young People (Scotland) Act 2014.

Many young adults with care experiences will be affected by the integration of health and social care. We know that this group can face additional risk factors leading to poor outcomes. For example, young adults with care experiences are:

- Disproportionately represented in the prison population;
- More likely to experience mental health problems;
- More likely to die prematurely;
- More likely to experience homelessness;
- More likely to have drug and alcohol problems.

The integration of health and social care for young adults over the age of 18 could provide holistic wrap-around services to meet vulnerable young adults' needs. This would be

positive (although we recognise that this still requires working with key partners in education and housing to achieve positive outcomes).

Under the Children and Young People (Scotland) Act 2014, there is an extension of aftercare provision for young people with care experiences (who are assessed as having eligible needs) up to the age of 26. The majority of Throughcare and Aftercare services in Scotland are provided under children's services.² It remains unclear how this group of young adults will be affected by the integration programme, but in view of their on-going health and social care needs (and local authorities and other corporate parents' ongoing responsibilities towards them) it is highly likely that it will have an impact. Proper consideration therefore needs to be given to how these regulations will affect this group of vulnerable young adults.

Under Part 2 of the Children and Young People (Scotland) Act 2014 there are new duties that will specifically impact on the complaints mechanisms available to children and young adults. From April 2015 individual children, and young people with care experiences up to the age of 21, will be able to raise issues with the Commissioner for Children and Young People, who has the power to investigate public authorities.

Part 3 of the Children and Young People (Scotland) Act 2014 covers Children's Services planning. There needs to be some consideration of how these duties will now be enacted if children's services are integrated into adult health and social care. Furthermore, if they remain separate, how will service plans coordinate to manage the transition between children and adult services? This also has implications for data sharing protocols.

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

We welcome the recognition of stakeholder and public engagement. Our literature review on the integration of health and social care highlighted the challenges in achieving this goal.

It is clear that whilst there is a general consensus that involving service users in policy making, planning and design is a positive and desirable approach, there is less clarity about what effective engagement is or how it should be achieved (Welch et al., 2014:17)

The Act sets out a range of important principles where the views and rights of service users are respected and taken into account for local service planning. This is a central finding of the Christie Commission and part of the recommendations to reform public services. We welcome this acknowledgement. However, given the policy rhetoric for the integration of health and social care has been focused on older adults, we are particularly concerned that younger adults may not be fully involved or a focus of engagement. This may have serious consequences for the fair allocation of funding and workforce development.

ANNEX 2(D)

² McGhee, K., Lerpiniere, J., Welch, V., Graham, P. & Harkin, B (2014) Throughcare and Aftercare Services in Scotland's Local Authorities, Glasgow: CELCIS & STAF. <http://www.celcis.org/media/resources/publications/Throughcare-and-aftercare-in-scotland-local-authorities.pdf> (Accessed 24.06.14)

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:

Partly - The Regulations must make reference to other legislative frameworks and statutory instruments. We are particular aware of the new duties under the Children and Young People (Scotland) Act 2014 as outlined above. These are relevant for some young adults up to the age of 26. For areas that do choose to integrate children's services, there will also be Adoption and Children (Scotland) Act 2007 to consider, as well as the Children (Scotland) Act 1995.

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

We recognise the wide range of functions of local authorities that will be delegated. The review of evidence highlighted that in the integration process, health may be the dominant partner and this could be to the detriment of social care services. For some services cited (such as mental health, occupational therapy, disability) there may already be strong partnership approaches in place. However, some services that have a greater social care, rather than health, emphasis may be at greater risk of being overlooked or given less priority. One of the key challenges will be the provision of services to families where an adult/child demarcation of service would not be desirable. It is unclear how the funding arrangements for these services will be negotiated.

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:

I have a query of why local authorities 'must' delegate (with no option of 'may' delegate) (Annex 2D) but health boards 'may' delegate. This may indicate a power imbalance.

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:

Partly - The list of services is extensive and will cover children and young people (due to emergency treatment, access to General Practitioners, health visitor services). Therefore, it is difficult to comprehend how children and young people will not be affected by the integration of health and social care. We do have some concerns that the focus on adult integration will be a disincentive for children and young people who are part of universal provision due to the current focus on older adult care.

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 we can provide the best description possible of these services, where they may not be applied consistently in practice.

The list of services set out in Schedule two arranges from universal services (GPs) to some very specific services (for example, continence services). As discussed above, the consideration of children and young people in these services must be recognised at some

level. This is especially important due to the transition of children to adult services which can happen at different age thresholds. For example, adult addictions services may also provide specialised support for young people. Discussion with the providers of these services is required to inform these regulations, to ensure that the legislation does not create artificial boundaries between child and adult services, and in process establish barriers to young people accessing the consistent support they require.

We are surprised that sexual health services are not specified in the schedule. A clear statement explaining the justification for inclusion or exclusion from the schedule would be beneficial for both local authorities and health boards.

We also believe it would be helpful to clarify what is meant by 'Services provided by Allied Health Professionals'. Although there will be widespread agreement about the inclusion of some services within this category, it is likely that some will be more contentious. Moreover, this is another health service area highly relevant to children and young people, and one in which local authorities' children's and education services already cooperate with NHS Health Boards. Consideration therefore needs to be given to how integration will impact on the planning and delivery of such services for children and young people.

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

Children's health services may be integrated. It would be good to monitor if this is done and how it is achieved across Scotland. The development of a new regulatory framework should allow the impetus for national monitoring the impact of new arrangements on the outcomes for people accessing health and social care services.

ANNEX 4(D)

**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:

These outcomes will frame the development of health and social care provision for Scotland. We agree with an outcomes approach and the importance of monitoring the impact. However, using the nine National Health and Wellbeing outcomes limits the full consideration of social care. We are concerned that this will lead to a focus on health outcomes rather than social care outcomes.

There needs to be some cognisance with the new definition of wellbeing in the Children and Young People (Scotland) Act 2014. The 'wellbeing indicators' are set out as part of the Getting it Right for Every Child improvement programme. These include every child should be: Safe, healthy, achieving, nurtured, active, respected, responsible and included

(commonly known by the acronym, SHANARRI). These have now been enshrined in Part 18, s.96 of the Act. Therefore, if local authorities and health boards have integrated children's services, they will need to take these indicators into account.

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?

Partly - We would be keen to understand how these outcomes have been developed with different groups who benefit from health and social care services.

The Christie Commission highlighted the importance of developing public services with, rather than for, people. We would welcome an outcome that recognised the importance of developing services through engagement. The tone of the current outcomes still suggests people are recipients of services. These outcomes should be strengthened to take the work of the Christie Commission fully into account.

The Scottish Government has stated that it is keen to 'make rights real' for children and young people in Scotland. We would welcome the explicit recognition of rights in the outcomes.

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?

Partly - As discussed above, the outcomes should be developed with people, rather than simply understood by them. Many of the nine Health and Wellbeing Outcomes speak more to service planning and delivery than to service users 'personal outcomes' or experiences. If designing a service around outcomes, it is also necessary to explain what success looks like. An outcome such as 'People who use health and social care services are safe from harm' requires indicators to run alongside it, explaining what constitutes 'harm', and the levels which will constitute 'safe'. In current format, these outcomes do not consider children and young people. This is an oversight given that the majority of boards are planning to integrate children's services.

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

No.

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

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:

3. Do you agree that identifying Social Workers and Social Service Workers through registration with the Scottish Social Services Commission 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?

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

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?

Yes

No

Partly X

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

Our concern is the lack of clarity about the inclusion of children's services in the integration of adult health and social care. Given the discretion of local decision makers, we are concerned that this is a model developed for older adults that may not be appropriate for children. Whilst we recognise from the evidence that there can be benefits of integration (especially for groups with multiple needs), there is also recognition that integration is very challenging to achieve. Therefore, we are concerned that the impact on children has not been given due consideration and will be included as an afterthought. There is also a specific issue with legislation for children and young people not being considered and a range of new governance arrangements need to be taken into account.

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

We would welcome a Child Rights Impact Assessment being conducted.