

Consultation on the Draft Regulations Relating to Public Bodies (Joint Working) Scotland 2014 – Set 1

Response from Inclusion Scotland

Inclusion Scotland (IS) is a national network of disabled peoples' organisations and individual disabled people. Our main aim is to draw attention to the physical, social, economic, cultural and attitudinal barriers that affect disabled people's everyday lives and to encourage a wider understanding of those issues throughout Scotland. Inclusion Scotland is part of the disabled people's Independent Living Movement.

This response has been informed by the views of disabled people themselves, following consultation events held with disabled people on health and social care integration last year. These led to the publication of "It's our world too: 5 asks for a better Public Bodies (Joint Working) (Scotland) Bill", which in turn informed our engagement with the Scottish Parliament during the passage of the Bill.

A number of the key issues of concern raised by disabled people during the passage of the Bill were issues that were considered more appropriate for Regulations and Guidance. We recognise that some of these will be dealt with in guidance, but we believe that key issues such as independent living, a rights based approach, coproduction, engagement and involvement of disabled people and capacity building should be reflected in the regulations.

1 Draft Public Bodies (Joint Working) (Integration Scheme) (Scotland) Regulations:

1.1 The Integration Scheme will set the framework for the integration of health and social care services within each local authority area. It is therefore essential that the integration scheme reflects the principles contained in the Act and the policy intentions of the legislation. The Policy Memorandum for the Bill stated:

"In terms of the aims of the reform, the principles enshrine the observation by the Christie Commission that —effective services must be designed with and for people and communities,

underpinning the planning and decision-making process from the outset.”¹

- 1.2 It is therefore essential that the prescribed information to be included in the integration scheme gives a clear indication of how the integration authority intends to include people and communities, particularly service users, in their proceedings.
- 1.3 Specifically, the Schedule to the regulations should include the arrangement for appointing non-voting members as required by section 12 of the Act.
- 1.4 Participation and Engagement – the prescribed information should include a statement on the arrangements made to ensure that the consultation process was open and accessible.
- 1.5 Complaints – Whilst we welcome that the regulations will require a clear statement of the arrangements for the management of complaints, we remain concerned about the lack of a single complaints system for health and social care integration, with effective powers of redress.
- 1.6 During the passage of the Bill, the Cabinet Secretary for Health and Wellbeing referred to the ongoing review of the social work complaints system, and gave a commitment that DPOs views would be sought and that we would be involved in the ongoing discussions surrounding the review. We are concerned that we have had no indication of any further progress on this review.

2 Draft Public Bodies (Joint Working) (Prescribed Health Board Functions) (Scotland) Regulations 2014

- 2.1 Health functions that must be delegated to the Integration Authorities are only prescribed in relation to persons of at least 18 years of age. This raises the question as to what happens to those services that are currently provided for persons under 18, particularly those planned and coordinated by Community Health Partnerships? How will health and social care services for under 18s be provided, who will plan these, how will service users and their carers be involved in the design and delivery of these services, and how will the transition from children to adult services be managed?

¹ Paragraph 67, Policy Memorandum, Public Bodies (joint Working)(Scotland) Bill
[http://www.scottish.parliament.uk/S4_Bills/Public%20Bodies%20\(Joint%20Working\)%20\(Scotland\)%20Bill/b32s4-introd-pm.pdf](http://www.scottish.parliament.uk/S4_Bills/Public%20Bodies%20(Joint%20Working)%20(Scotland)%20Bill/b32s4-introd-pm.pdf)

3 Draft Public Bodies (Joint Working) (National Health and Wellbeing Outcomes) (Scotland) Regulations 2014

3.1 The National Health and Wellbeing Outcomes are central to driving the changes to health and social care services to meet the underlying principles of the Public Bodies (Joint Working) (Scotland) Act. It is therefore crucial that the language used to define the National Outcomes reflects the principles and policy intentions of the Act.

3.2 We are concerned that the National Outcomes as currently defined do not do so, and are too focussed on the inputs and outputs for public services rather than the outcomes for individual service users.

3.3 **Outcome 2:** “People, including those with disabilities, long term conditions, or who are frail, are able to live, as far as reasonably practicable, independently and at home or in a homely setting.”

a. Much of the Scottish Government’s focus seems to be on dealing with delayed discharges and preventing unplanned admissions to hospital. We need to make sure that this outcome is more focussed on supporting independent living, and not simply transferring institutionalised patterns of care from a hospital setting to a domestic setting.

b. Whilst the policy background recognises that independent living is key to improving health and wellbeing, the wording of this outcome does not properly reflect this. In particular, it does not reflect the definition of independent living which the Scottish Government has itself endorsed:

“disabled people of all ages having the same freedom, choice, dignity and control as other citizens at home, at work, and in the community. It does not mean living by yourself, or fending for yourself. It means rights to practical assistance and support to participate in society and live an ordinary life.”²

3.4 **Outcome 3:** People who use health and social care services have positive experience of those services and have their dignity respected.

a. We welcome that the policy background states that it is important that health and social care services take full account of the needs and aspirations of the people who use services and that for people who use care and support services should be positive, and should be delivered for the person rather than to the person.

² Our Shared Vision for Independent Living in Scotland <http://www.scotland.gov.uk/Resource/0041/00418828.pdf>

- b. However, the policy background also talks in terms of services being planned and delivered “for” the person rather than being planned and delivered **with** the person, which is the essence of coproduction.

3.5 **Outcome 4:** Health and social care services are centred on helping to maintain or improve the quality of life of service users.

- a. We agree with the policy background that “there is unwarranted variation and inconsistency in the quality of care and support for people across Scotland. Everyone should receive the same quality of service no matter where they live.”
- b. Some of these inconsistencies result from social care charging policies and lack of portability of social care packages, which are not addressed, and are likely to become more inconsistent as the line between what is a “free” health care service and a “charged for” social care service becomes increasingly blurred.

3.6 **Outcome 5:** Health and social care services contribute to reducing health inequalities.

- a. Disabled people are more likely to experience health inequalities both because they are more likely to live in poverty and because disabled people experience discrimination in accessing and securing the same level and quality of health services as non-disabled patients. Research shows that some groups of disabled people (such as those with learning difficulties or long term mental health problems) die younger than non-disabled people, often from preventable conditions.
- b. Despite evidence of discrimination and poorer outcomes for disabled patients Scottish Government policy on health inequalities continues to focus on health differences linked to geographical area, gender, deprivation level and ethnicity
- c. As noted at Outcome 2, **independent living is key to improving health and wellbeing, and therefore is also key to addressing health inequalities.** Ensuring that disabled people are involved, through coproduction, in the design and delivery of integrated health and social services will help to start to address the discrimination, poorer outcomes and health inequalities that affect too many disabled people.

3.7 **Outcome 6:** People who provide unpaid care are supported to reduce the potential impact of their caring role on their own health and wellbeing.

- a. **We are deeply concerned by the implication in this outcome that caring is a burden.** Caring should not be regarded as a burden. It should be a choice freely entered in to by both the carer and the person receiving the care, taking account of the other support that is, or could be, available.

3.8 **Outcome 7:** People who use health and social care services are safe from harm.

- a. This should not be used to justify restricting service users from making informed decisions about risk in the choices they make on how they live their lives, in the same way as any other person can.

3.9 **Outcome 9:** Resources are used effectively in the provision of health and social care services, without waste.

- a. Whilst resources should always be used effectively and without waste, this is really a measure of inputs and outputs, not the outcomes that are delivered for service users.

If you have any questions on this consultation response, or for further information, contact:

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