

CONSULTATION ON THE DRAFT REGULATIONS AND ORDERS RELATING TO PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

RESPONSE BY NORTH AYRSHIRE COUNCIL

PRESCRIBED INFORMATION TO BE INCLUDED IN THE INTEGRATION SCHEME

We agree with the prescribed matters to be included in the Integration Scheme and do not propose any additional matters for inclusion.

We note the operational role of the Chief Officer is included in the regulations, however the responsibilities of the Chief Officer are not. Section 10(7) of the Act states “the responsibilities of a Chief Officer are subject to the agreement of the Scottish Ministers”, we therefore feel further clarification is required.

We feel further clarification is required around “an integration authority which is....a Health Board and local authority acting jointly”. It is unclear whether this refers to an Integration Joint Board under s.1(4)(a) or the integration model in s.1(4)(d).

We note the requirement for the integration scheme to contain information about the management of complaints. As services are delivered on a more integrated basis it will be important for partnerships to have processes and accountability for complaints management that are clear and easy to follow for people who may have a complaint to make. In this context we note that there has been no decision as regards the future of Social Work Complaints Review Committees and it would clarify the complaints landscape if a decision were made as to their continuation or otherwise.

As regards the question of a dispute resolution procedure, we are of the view that almost all disputes should be capable of local resolution, either informally or by way of the agreed procedure. However we consider that it would be wise to plan at a national level for the small number of disputes which are not able to be resolved among the partners. In particular these might involve disputes between one or more of the stakeholder groups represented on the Integration Joint Board and the two statutory partners or between the Integration Joint Board and one or other of the statutory partners.

PROPOSALS FOR PRESCRIBED FUNCTIONS THAT MUST BE DELEGATED BY LOCAL AUTHORITIES

The list of functions that must be delegated, with the exception of aids and adaptations and housing support services, are already within the scope of delegation by North Ayrshire Council.

We understand that some councils, who have undertaken a housing stock transfer, will manage housing support services within their Social Work departments and that in that case, a delegation to the Health & Social Care Partnership will be the most effective way of managing that service.

Other councils, including North Ayrshire, continue to have a full housing service in which housing support services are located. Disengagement of housing support from other services, such as homelessness, which draw on them, is not necessarily the most effective or efficient way of delivering these services. Strong strategic and operational links between Housing Services and Health & Social Care Partnerships will be a necessary component of the transfer of the balance of care from institutional to community settings but how this is achieved will vary between Partnerships. Our view is that housing support should not be included in the mandatory delegation meantime but that local solutions should be developed to ensure joined up working between Housing and Health & Social Care services.

We do not believe that the draft regulations are sufficiently clear as to what is included in “housing support” and it is not clear from the regulations why section 92 of the Housing (Scotland) Act 2001 has been included in the functions which must be delegated, as the promotion or development of registered social landlords does not appear to come under the heading of housing support services, or any other function which must be delegated. If the function is that under s.92 (2)(a) which states “a local authority may provide assistance to a registered social landlord or to any other person concerned with - (a) providing, improving, adapting, repairing, maintaining and managing housing” - and it is the “improving” and “adapting” which falls under housing support services, then this should be clarified by including a limitation in Column B and by referring to applicable sub section. The wording in parenthesis should also be revised.

Nevertheless, it remains the Council’s view that s.92 of the Housing (Scotland) Act 2001 should not be included in the mandatory delegation. This function sits better within the housing functions remaining with councils.

The Council requests that mandatory delegation of housing functions be limited to equipment and adaptations

PRESCRIBED FUNCTIONS THAT MAY OR THAT MUST BE DELEGATED BY A HEALTH BOARD

We welcome the proposals that a Health Board must delegate all of its functions as they relate to adult primary and community health services. In the main, these services are already delegated to the Shadow Health and Social Care Partnership by NHS Ayrshire & Arran. The one area which requires further clarification relates to Public Health / Health Promotion. The Council is firmly of the view that the health improvement functions should be embedded within the HSCP and that effective delivery of health improvement measures should be delivered alongside operational services. The area for further delineation relates to the Public Health function where a pan Health Board response may be more effective, for example, infection control response.

We also welcome the other main proposal within these regulations relating to delegation of functions of a proportion of hospital sector provision mainly relating to unscheduled hospital care. As we understand it, the intention is that the partnerships must have a degree of influence and control over emergency care

pathways through strategic planning. We understand that this is an attempt to ensure transparency around resource allocation between community and acute services and to facilitate a shift in the balance of care. We recognise that this is complex and along with our partners in East and South Ayrshire and NHS Ayrshire and Arran, we have volunteered to assist the government in developing the arrangements and mechanisms required.

NATIONAL HEALTH AND WELLBEING OUTCOMES

We welcome the proposed national Health and Wellbeing outcomes. These reflect the work that has been completed over the past few years around Community Care outcomes and in particular the work led by the Joint Improvement Team around Talking Points. These outcomes would benefit from a more explicit link to Talking Points in the Regulations.

Outcome 8, “People who work in health and social care services are supported to continuously improve the information, support, care and treatment they provide and feel engaged with the work they do” would benefit from a link between improving outcomes for service users and the corresponding outcomes for staff.

INTERPRETATION OF WHAT IS MEANT BY THE TERMS HEALTH AND SOCIAL CARE PROFESSIONALS

We agree that the groups listed prescribe what “health professional” means for the purposes of the Act. We also agree that identifying Social Workers and Social Service Workers through registration with the Scottish Social Services Council (SSSC) is the most appropriate way of defining Social Care Professionals provided that this is read with sections 3(b) and (c) of the draft Statutory Instrument which widens that description to include persons who would be registered with the SSSC were they not already registered with another named body and persons who are not eligible to be registered with the SSSC but who nonetheless provided care and support to users of social care services, for example care at home staff and social work assistants.

PRESCRIBED FUNCTION CONFERRED ON A LOCAL AUTHORITY OFFICER

We agree that the definition of a “Council Officer” for the purposes of Adult Support and Protection will not change from that contained within the Adult Support and Protection (Scotland) Act 2007 i.e. registered/part registered social workers, occupational therapists and nurses, with at least 12 months post qualifying experience.

However, we recognise in the case of Integration Joint Boards, this role can be conferred to an officer of the Health Board where they meet the prescribed conditions stated above i.e. occupational therapists and nurses.

In addition, the age limit of 18 to define “adults” within the Regulations, does not fit with the age limit of 16 being used to define “adults” in relation to the Adult Support and Protection Act.

PRESCRIBED GROUPS WHICH MUST BE CONSULTED WHEN PREPARING OR REVISING INTEGRATION SCHEMES; PREPARING DRAFT STRATEGIC PLANS; AND WHEN MAKING DECISIONS AFFECTING LOCALITIES

North Ayrshire Council agrees that the draft Regulations include the right groups of people to be consulted.

MEMBERSHIP, POWERS AND PROCEEDINGS OF INTEGRATION JOINT BOARDS

The Council is in agreement with the list of non-voting members who should be appointed to the Integration Joint Board.

In respect of members who are councillors, the draft regulation stresses that a member who is a councillor is not required to resign only by reason of ceasing to be a councillor. This is contrary to all normal practice where councillors are appointed to external bodies and we therefore propose that the draft regulation should be amended to require the resignation of a councillor member if that member ceases to be a councillor.

Councillors usually serve for the lifetime of a council, i.e. for five years. It would be helpful to allow Councils to appoint members for that period rather than for three years as at present.

The Council recognises the difficulty that Health Boards may experience in identifying a sufficient number of non-executive directors to Integration Joint Boards, particularly where a single Health Board area covers a number of Integration Joint Board areas. The provision in the draft Regulation that the Health Board should nominate at least two non-executive directors could result in there being an equal number of executive and non-executive directors on the Integration Joint Board where the number of NHS and Council appointees is four. In view of the potential conflict of interest on the part of executive directors and the need to ensure independent scrutiny, the Council requests that the draft Regulation be amended to require that the majority of NHS appointees to the voting membership of Integration Joint Boards should be non-executive Directors of the NHS Board.

From time to time members will have to declare an interest in the business being decided by the Integration Joint Board and will not be eligible to participate in the discussion or to vote. Provision should be made in the Regulations for the impact that that will have on the balance of voting membership between members appointed by the NHS Board and members appointed by the Council in the event that a vote is taken on which one of the voting members has declared an interest.

The Council notes that an Integration Joint Board may pay all reasonable expenses relating to travel and subsistence costs incurred by its members in connection with their membership of the Integration Joint Board. From time to time some non-voting members may be in paid employment and may suffer loss of earnings as a result of their participation in the work of the Board. The Council accordingly asks that the draft regulations be amended to allow members to be reimbursed for loss of earnings.

In respect of the matters to be included in Standing Orders, the Council notes that at least two thirds of the voting members nominated by the Health Board and two thirds of the voting members nominated by the local authority are required to constitute a quorum. It may be difficult to sustain that level of attendance on all occasions and therefore the Council asks that the regulation is amended to prescribe that one half of the voting members nominated by the Health Board and one half of the voting members nominated by the local authority will constitute a quorum.

The Council notes that the Policy Statements previously noted the Health Board Director of Finance of the local authority s.95 officer should be included in the non-voting members of the Integration Joint Board. This position seems to have been revoked in the statutory instruments and therefore further clarification is sought regarding the position of this role.

PRESCRIBED MEMBERSHIP OF STRATEGIC PLANNING GROUPS

North Ayrshire Council is in agreement with the proposed groups of people listed in the draft Regulation as requiring to be represented on the strategic planning group.

CONTENT OF PERFORMANCE REPORTS

North Ayrshire Council is in agreement with the prescribed matters to be included in the performance report. We welcome the ability to include such other information in the performance report as the integration authority sees fit. This will enable integration authorities to adapt performance reporting to their own situation and make them more relevant to local circumstances.