

Government Response to the Consultation to include Integration Joint Boards and Category 1 Responders under the Civil Contingencies Act 2004

January 2021



Scottish Government
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Introduction

1. Integration Joint Boards are the legal entities created to deliver integrated health and social care services under the Public Bodies (Joint Working) (Scotland) Act 2014. Integrated Joint Boards were not originally included as Category 1 responders in the Civil Contingencies Act 2004 with a consequential amendment to that Act when the Public Bodies (Joint Working) (Scotland) Act 2014 was passed because they are not employers of staff who deliver services.
2. While Integration Joint Board Chief Officers have already been contributing to local emergency and resilience planning, they have only formally done so through their roles as directors of Health Boards and Local Authorities and without the appropriate reference to their accountable officer status within the Integration Joint Boards. By including Integration Joint Boards as Category 1 responders, it ensures that where there is a risk of an emergency which will impact functions delegated to the Integration Joint Board, there will be formal coordinated and appropriate arrangements in place for emergency planning; information sharing and cooperation with other responders; and joined up information sharing and advice for the public.
3. A consultation about including Integration Joint Boards as [Category 1 responders under the Civil Contingencies Act 2004](#) took place on Citizen Space between 12 October and 22 November 2020. The purpose of the consultation was to ensure that the proposal to include Integration Joint Boards as Category 1 responders under Schedule 2 of the Civil Contingencies Act 2004 would have no significant wider impacts or unintended consequences under the Equality Act 2010 including the Fairer Scotland Duty. There were 42 valid responses to the consultation, the full analysis of which has been published alongside this report.

Consultation

Equality Impacts

4. The consultation question specifically asked about potential impacts in relation to the Equality Act 2010 and the Fairer Scotland Duty, the full question is available at **Annex A**. Twenty-six of the responses received made a comment on potential impacts, 18 of these were to state that there were no anticipated impacts, 4 stating that there were positive impacts – associated with closer working between partners, and fairness and equity in response and recovery.
5. The 4 responses which anticipated potential negative impacts provided a diverse range of specific examples which are addressed in the Additional Responses section of this report. None of the negative responses related to protected characteristics under the Equality Act or the promotion of socio-economic equalities under the Fairer Scotland Duty. As a result there is no reason not to continue with legislative work to include Integration Joint Boards as first responders in Part 2 of Schedule 1 of the Civil Contingencies Act 2004.

Additional Responses

6. Although the consultation asked only about equalities impacts, 33 respondents took the opportunity to provide their views on the proposal itself. Respondents' views were mixed, and there was no consensus about the proposal to amend the Civil Contingencies Act 2004 to include Integration Joint Boards.

7. Of these 33 responses, ten were broadly supportive of the proposal, although 4 of these also expressed some reservations. Support was generally associated with views that the proposal would enhance or formalise existing arrangements, and reservations were due to issues requiring clarification and concerns about resourcing and capacity.

8. Fourteen responses stated that they did not support the proposal, objections were generally associated with views that the proposal:

- is potentially wasteful, burdensome and unnecessary;
- is detrimental to/undermines existing effective systems/process;
- creates confusion and complexity;
- causes practical difficulties and requires additional resourcing/capacity;
- is not compatible with Integration Joint Board constitution and function, so statutory duties could not easily be met (e.g. not responsible for operational delivery);
- does not take into account island communities considerations.

9. A further 9 responses did not expressly indicate whether or not they supported the proposal, but highlighted issues requiring clarification or further consideration (particularly resourcing and capacity), or felt there was no requirement for Integration Joint Boards to become Category 1 responders.

10. It is important to note that on the whole, although not exclusively, Integration Joint Boards were generally supportive of the intention to legislate while the majority of the responses for current arrangements to remain in place came from Local Authorities and NHS partners. The proposal to legislate has emerged from evidence during the pandemic, referenced by the Health and Sport Committee on the 17 June 2020, that in some areas Integration Joint Boards were not included in local response activity by the Health Board and/or Local Authority.

11. The Integration Joint Board is the decision making and governance body for all delegated functions, services and budgets, identified in individual integration schemes, jointly agreed by the relevant Local Authority and Health Board. The Local Authority and Health Board employ staff and operationally manage services, with the Integration Joint Board Chief Officer having strategic responsibility and operational oversight. It is therefore anticipated that Integration Joint Boards having Category 1 status should complement the work already conducted by all of the partners. In terms of resourcing, there should be limited additional activity associated with the requirement given local partners are already working with an integrated health and social care model. Officers already engaged via partnership arrangements in the Health Board and Local Authority would be expected to ensure the Integration Joint Board is briefed and included in discussions and planning.

12. One response suggested that the proposal did not consider the unique position of Island communities. It is recognised that smaller Integration Joint Boards (including those on the Islands) must operate efficiently to deliver their existing statutory duties. However, as with other Integration Joint Boards, Island Integration Joint Boards assuming Category 1 status should complement the work already conducted by existing delivery partners in Island communities. Additional resourcing requirements should therefore be minimal and the inclusion of Integration Joint Boards should enhance the extent to which those responsible for planning health and social care services in Island communities are involved in emergency response.

13. A concern was raised by a respondent whether the proposal is contrary to the defined duties laid out in the Public Bodies (Joint Working) Act 2014. However, the addition of Civil Contingencies Act duties ought not to effect what Integration Joint Boards can and cannot do in relation to the functions that are delegated to them by Local Authorities or Health Boards under the Public Bodies (Joint Working) Act. Rather the duties in the Civil Contingencies Act will apply to whatever delegated functions an Integration Joint Board will carry out (as well as to any other powers and duties an Integration Joint Board has in any other legislation). It should also be noted that there are no obligations to include the duties of the Civil Contingencies Act under s.1(3) of the Public Bodies (Joint Working) Act when preparing an integration scheme.

14. A response to the consultation noted that the Integration Joint Board does not have to provide the same assurances that they have met the Equalities and Fairer Scotland Acts as Local Authorities and Health Boards. However, Integration Joint Boards, Health Boards and Local Authorities are all already required to comply with the duties in s.1 and s.149 of the Equality Act 2010, and so have to carry out their functions in compliance with those duties. On the understanding that all Integration Authorities and specifically Integration Joint Boards are complying with their current duties we anticipate that the duties should be minimal.

Conclusion

15. In considering all of the responses to the consultation, the Scottish Ministers have concluded that there are neither clear equality, operational nor strategic planning barriers to progressing the proposal and legislating for the Integration Joint Board inclusion within the Civil Contingencies Act 2004 as Category 1 responders. The inclusion of Integration Joint Boards in the Civil Contingencies Act 2004 will ensure formal coordinated and appropriate arrangements are in place for emergency planning to support local communities.

Annex A – Consultation Question

The Scottish Government intends to pass legislation that will include Integration Joint Boards as Category 1 responders under Schedule 2 of the Civil Contingencies Act 2004. Do you, or the organisation that you represent, envisage this change to have any significant wider impacts or unintended consequences under the Equality Act 2010 including the Fairer Scotland Duty? These include but are not limited to protected characteristics of race, gender, age, religion, sexual orientation, disability, gender reassignment, religion or belief, pregnancy or maternity, low income, low wealth or living or growing-up in areas of deprivation. Please consider these for:

- yourself,
- your organisation,
- people who use health and social care services,
- people who work in the health and social care sector, or,
- any other persons or organisations in the wider health and social care sector?



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This publication is available at www.gov.scot

Any enquiries regarding this publication should be sent to us at

The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

ISBN: 978-1-80004-553-8 (web only)

Published by The Scottish Government, January 2021

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS814246 (01/21)

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