Public Bodies (Joint Working) (Scotland) Bill

Equality Impact Assessment Results

Executive Summary

The Scottish Government
Riaghaltas na h-Alba

EQUALITY IMPACT ASSESSMENT (EQIA) – RESULTS

Directorate/Division	Directorate for Health and Social Care Integration Integration and Reshaping Care Division
Title of the Policy	Public Bodies (Joint Working) (Scotland) Bill
Completion of Equality Impact Assessment (EQIA)	Date: 15 May 2013

Executive Summary

1. Background

1.1 The Public Bodies (Joint Working) (Scotland) Bill represents the radical reform required to improve care, particularly for adults with multiple complex needs for support, many of whom are frail older people, and to make better use of the substantial resources that we commit to adult health and social care. The Bill will bring forward legislation to remove Community Health Partnerships from statute. Instead, the Bill will create local integration arrangements, which will be the joint and equal responsibility of Health Boards and local authorities.

The proposals of the Bill are based on four key principles:

- Nationally agreed outcomes will be introduced, which will apply across adult health and social care;
- Statutory partners will be jointly and equally accountable for the delivery of those outcomes;
- Integrated budgets will apply across adult health and social care; and
- The role of clinicians and care professionals will be strengthened, along with engagement of the third and independent sectors, in the commissioning and planning of services.

1.2 Details of the policy proposals were set out in the Integration of Adult Health and Social Care in Scotland Consultation[1] document. A partial Equality Impact Assessment (EQIA) was published within the consultation document at Annex D. The EQIA process will continue throughout the development of the Bill through to implementation. The EQIA has helped to inform the policy by identifying gaps in knowledge about equality issues, increasing awareness of the Equality Act 2010 and providing the opportunity to explore the potential positive and negative impacts of the policy proposals on the protected equality characteristics.

[1] Integration of Adult Health and Social Care in Scotland: Consultation of Proposals http://www.scotland.gov.uk/Publications/2012/05/6469

1.3 From the perspective of people who use health and social care services (patients, service users, carers and families) there are a number of issues that the legislation aims to address including:

- There is inconsistency in the quality of care for people, and the support provided by carers, across Scotland, particularly in terms of services for older people and adults who access a range of support services across health and social care;
- People are sometimes unnecessarily delayed in hospital when they are clinically ready for discharge; and
- The services required to enable people to stay safely at home are not always available quickly enough, which can lead to avoidable and undesirable admissions to hospital.

1.4 We know from clinicians and other professionals who provide health and social care support that, as far as possible, it is better for people's wellbeing if they are supported in their own homes or another homely setting in the community, rather than being admitted unnecessarily to hospital.

1.5 Despite a good track record of partnership working over many years, our current system of health and social care still incorporates within it barriers in terms of structures, professional territories, governance arrangements and financial management that often have no helpful bearing on the needs of the large, growing group of older service users, and in many cases work against general aspirations of efficiency and clinical/care quality. We need to reform the system to deliver care that is better joined up and as a consequence delivers better outcomes for patients, service users and carers.

1.6 Our goal for integration of health and social care is to tackle these challenges and, in particular, to address the disconnects described above, to ensure that the balance of care shifts from institutional care to services provided in the community, and resources follow people's needs. This is in line with our commitment to a person-centred approach which builds on the principles of the Healthcare Quality Strategy for NHSScotland[2].

1.7 This policy will contribute to delivery of several National Outcomes including:

- We live longer, healthier lives;
- We have tackled the significant inequalities in Scottish society;
- We live in well-designed, sustainable places where we are able to access the amenities and services we need;
- Our people are able to maintain their independence as they get older and are able to access appropriate support when they need it;
- We have strong, resilient and supportive communities where people take responsibility for their own actions; and

[2] The Healthcare Quality Strategy for NHSScotland
http://www.scotland.gov.uk/Publications/2010/05/10102307/0

- Our public services are high quality, continually improving, efficient and responsive to local people's needs.

Stakeholder Input

1.8 The Scottish Government, with support from NHS Health Scotland, held a Health Inequalities Impact Assessment (HIIA) scoping workshop in the early stages of the impact assessment process. The aim of the workshop was to identify areas of potential impact on those accessing health and social care services. The findings from this workshop helped to develop a partial EQIA. The partial EQIA was included in the consultation document for comment. Feedback confirmed that there were gaps in knowledge identified regarding views of lesbian, gay, bisexual, transgender people and ethnic minority communities including gypsy travellers.

1.9 A variety of information sources were used in compiling the assessment with research and statistical data obtained by analytical colleagues. This included research that was provided directly by stakeholders. The evidence and themes arising from this is reflected in the summary of key findings.

1.10 To help increase our understanding of all equality groups we have set up an Equalities Reference Group. The Group met for the first time in October 2012 and provided valuable input to the impact assessment process. Membership is made up of a variety of equality representatives including:

- Age Scotland
- Barnardos
- Carers Network
- Capability Scotland
- Edinburgh Voluntary Organisations Council
- Equality Network
- Health and Social Care Alliance
- Inclusion Scotland
- Independent Living in Scotland Project
- Minority Ethnic Carers of People Project (MECOPP)
- NHS Health Scotland
- Representative of the Association of Directors of Social Work (ADSW)
- Scottish Human Rights Commission
- Stonewall Scotland
- The Princess Royal Trust for Carers

1.11 We have also received feedback from individuals and organisations or groups via the consultation process, as well as actively seeking feedback from related equality representatives including Engender, Public Participation Forums and Transgender Alliance.

1.12 Scottish Government officials from various departments have also provided input including analytical services, the equality unit, human rights,

eHealth, children's rights and wellbeing, adult protection, criminal justice, reshaping care, adult care and support, and housing. Officials have provided advice on the approach to EQIA, evidence gathering, the potential impacts for specific groups, including Human Rights impacts, as part of the assessment.

1.13 We will continue to engage with internal colleagues, equality groups and Public Participation Forums throughout the Bill's progress through Parliament and further into implementation.

1.14 During the consultation, stakeholders expressed the view that consideration should also be given to the impact on Human Rights and Privacy. This paper provides a summary of the key findings, including the points raised in relation to human rights and privacy, and plans going forward. The Scottish Human Rights Commission provided a very useful case study[3] regarding the possible positive and negative impacts on Human Rights. This provided a useful focus for discussion.

Key Findings

2. Age and Disability

Age Criteria

2.1 We know that demographic change makes the case for change urgent, and suggests that improving services for older people should be a priority. Current projections suggest that the population of Scotland will rise to 5.76 million by 2033 and the population will age significantly, with the number of people aged 65 and over increasing by 63%, from 0.88 million to 1.43 million[4]

2.2 In 2011, the vast majority of both home-care clients (82%) and long stay care home residents (86%) were at least 65 years old[5]

2.3 Stakeholders from the consultation events, the Equality Reference Group and respondents to the consultation raised concerns about placing the focus of integration on older people's services first. While acknowledging that there is a strong correlation between long-term conditions and age, a consistent view was that integration should be considered in terms of people's wellbeing and state of health, and the complexity of their needs, rather than in terms of chronological age.

[3] Scottish Human Rights Commission Case Studies
http://www.healthscotland.com/uploads/documents/19737-04%20HumanRightsCaseStudiesResourcePack.pdf
[4] The Scottish Government Equality Evidence Finder
http://www.scotland.gov.uk/Topics/People/Equality/Equalities/DataGrid/Age/AgePopMig
[5] The Scottish Government Equality Evidence Finder
http://www.scotland.gov.uk/Topics/People/Equality/Equalities/DataGrid/Age/AgeHealth

Disability

2.4 We know that around a third of households in Scotland (34%) contain at least one person with a long-standing illness, health problem or disability. This figure covers all members of the household, including children[6]. In 2011, over a quarter (26%) of home-care clients had physical disabilities[7].

2.5 Many consultation respondents, mainly from representative disability groups, highlighted concerns about access to appropriate services. We noted that initially focussing on older people first was perceived by stakeholders as indirectly discriminating against people with disabilities, who would be unable to access the service they need due to not meeting the 'age criteria'.

SG Response

2.6 We acknowledge the point made that focussing on people's wellbeing and state of health provides a stronger approach than one that depends on groupings defined by chronological age. Rather than using 'age criteria', services will focus on improving outcomes for adults with multiple long term conditions and complex support needs.

Human Rights

2.7 The ERG expressed the view that there could be a positive impact, particularly for people with disabilities, if the policy allows people to be supported to live independently in the community for as long as possible. However, this is only feasible if people are sufficiently supported to participate in the community with equal choices to others.

2.8 Adult protection issues were also raised by the Scottish Human Rights Commission (SHRC). There may be a negative impact due to the increased number of vulnerable adults living and being supported in their own home. The SHRC and members of the ERG agreed that it would be important to have a framework for the training and qualifications of home-based health and social care workers and the regulation of home-based care services and staff.

SG Response

2.9 We have consulted with the Adult Protection Forum[8] which has responsibility for considering key issues and to inform the strategic direction for adult protection in Scotland. Membership is drawn from a wide range of interests, reflecting the imperative to work collaboratively and across organisational boundaries when providing support and protection to adults at risk of harm.

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[6] Scotland's People Annual Report: Results from 2011 Scottish Household Survey http://www.scotland.gov.uk/Publications/2012/08/5277/10

[7] The Scottish Government Equality Evidence Finder http://www.scotland.gov.uk/Topics/People/Equality/Equalities/DataGrid/Disability/DisabHealth

[8] Adult Protection Forum http://www.scotland.gov.uk/Topics/Health/Support-Social-Care/Adult-Support-Protection/Policy-Forum

2.10 The membership includes representatives from local authorities, Association of Chief Police Officers (ACPOS), Association of Directors of Social Work (ADSW), the Mental Welfare Commission, the Office of the Public Guardian, the Care Inspectorate, the Scottish Independent Advocacy Alliance, the Scottish Prison Service and the Crown Office.

2.11 The Adult Protection Forum[8] has expressed the view that the Bill is unlikely to lead to any significant adult protection issues. However, the Forum will continue to provide advice as appropriate for the duration of the Bill development and implementation of the policy.

2.12 The Scottish Government expect integrated partnership arrangements to include undertaking a local Equality and Human Rights Impact Assessment. Partnerships will also be expected to plan appropriate training and support to ensure high standards of home-based services.

2.13 We will liaise with Scottish Social Services Council to find out what training support is already available for staff and how this might be extended to support the integration agenda.

Charging

2.14 The partial EQIA described concerns about the shift in the balance of care to health and social care partnerships services provided in the community. There was recognition that there is the likelihood of an increase in the level and range of social services provided in the community. This could lead to an increase in the number of payments made on behalf of and by people who access chargeable social care services. This could negatively impact on disabled people because they may be liable for more charges. This issue has also been raised repeatedly at stakeholder events and meetings.

SG Response

2.15 COSLA have established a working group to tackle unacceptable variation in charging policies for care applied by different local authorities. We will continue to work with COSLA and Scottish Government colleagues to monitor the impact of charging.

3. Gender

3.1 The policy aims to provide better outcomes for everyone accessing services including better support for carers. However, evidence suggests that women are more significantly affected by this policy. Women tend to work in social care roles more than men; proportionately there tends to be more female carers; and women are more likely to live longer and outlive male partners so they are more likely to access services in later life[9].

[9] The Scottish Government Equality Evidence Finder
http://www.scotland.gov.uk/Topics/People/Equality/Equalities/DataGrid/Gender/GenHealth

SG Response

3.2 We will continue to consult with members of the ERG and other key stakeholders, including carers groups, to monitor the impact on women.

3.3 An Integration Workforce Development Strategy Group[10] has been established to identify and address the key workforce developments necessary to support the effective integration of adult health and social care delivery. This will include consideration of staff side issues. The group will monitor progress and provide recommendations as appropriate with the aim of creating an engaged workforce that values equality.

4. Lesbian, Gay, Bisexual and Transgender

4.1 There is very little evidence regarding the experiences of transgender people accessing services. In 2008, Transgender Alliance published a report on the experiences of transgender people in Scotland. The report raised issues about NHS records being fully updated and a lack of training for health staff[11].

4.2 We also identified gaps in our knowledge of the experience of lesbian, gay and bisexual people accessing services. Stonewall reported that LGB older people have increased anxiety about allowing health and social care workers into their home and many have had a negative experience, or have experienced discrimination, when using these services[12].

SG Response

4.3 We believe that staff training, inclusion of LGBT needs within local plans and involving LGBT people in local decision making will be integral to improving services for this group. The ERG will be used as a vehicle to facilitate discussion between the Scottish Government, LGBT organisations and integrated authorities. This continued dialogue will help to raise awareness of the issues and inform decision making including the development of guidance to support partners with the planning and implementation process.

4.4 Stonewall Scotland have developed valuable resources[13] to support staff to be better skilled in dealing with the needs of LGB people. The

[10] Working groups supporting the Integration of Adult Health and Social Care Bill http://www.scotland.gov.uk/Topics/Health/Policy/Adult-Health-SocialCare-Integration/IntegrationBillWorkingGroup
[11] Transgender Experiences in Scotland http://www.scottishtrans.org/Uploads/Resources/staexperiencessummary03082.pdf
[12] Stonewall Lesbian, Gay and Bisexual People in Later Life http://www.stonewall.org.uk/documents/lgb_in_later_life_final.pdf
[13] Stonewall Scotland Resources http://www.lgbtgoodpractice.org.uk/

resources include guidance and online training[14] which staff can access via the Stonewall website.

5. Ethnic Minorities

5.1 The ERG raised concerns about the levels of health and social care service uptake from minority ethnic communities. Current evidence suggests that the numbers of minority ethnic people accessing services is low.

5.2 A report by Minority Ethnic Carers of People Project (MECOPP) indicated that white staff feel they do not have an appropriate level of knowledge regarding minority ethnic communities. Also difficulties were expressed about approaching work with minorities: they referred to being afraid to do the work, on not knowing how to do it, and for fear of offending. The report showed that black and minority ethnic users are still the least likely to access social care services[15].

5.3 There has been little Scottish specific research into the healthcare needs and experiences of Gypsy Travellers, but English data shows that Gypsy Travellers have significantly poorer health than other UK-resident English-speaking ethnic minorities and economically disadvantaged white UK residents. Evidence suggests that some GP surgeries refuse to register Gypsy Travellers as patients and doctors can be reluctant to visit sites. As a result Gypsy Travellers sometimes have no alternative but to seek care through accident and emergency clinics[16].

5.4 The Equalities Committee held evidence sessions on Gypsy/Travellers and care and sponsored an event in Parliament, hosted by MECOPP, about working with Gypsy Traveller carers. The Committee published a report in 2012[17]. The report highlights a number of issues including the difficulty in accessing services when moving from one local authority area to another.

SG Response

5.5 We need to find out more about the experiences of ethnic minority groups when accessing services. We will continue to consult with ethnic minority representative groups, including MECOPP, to get their input on how accessing services can be improved.

5.6 We will work with internal and external colleagues to monitor progress against the relevant points raised within the Equalities Committee report

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[14] Stonewall Online Training Resource http://www.stonewallscotland.org.uk/scotland/at_work/diversity_champions_scotland/default.asp

[15] MECOPP: Minority Ethnic Health Conditions Research http://www.mecopp.org.uk/files/documents/research/minority_ethnic_health_conditions.pdf

[16] Equality and Human Rights Commission Scotland: Gypsy Travellers in Scotland – A resource for the media 2010 http://www.equalityhumanrights.com/scotland/scottish-news/gypsy-travellers-in-scotland-a-resource-for-the-media

[17] 3rd Report, 2012 (Session 4): Gypsy/Travellers and Care http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/54885.aspx

regarding Gypsy/Travellers. Specifically we will expect partners to consider the implications for Gypsy/Travellers moving from one local authority area to another and the need to ensure that this does not delay providing the appropriate health and social care services.

5.7 The Integration Workforce Development Strategy Group[10] will ensure that workforce issues including cultural outcomes is appropriately taken into account in staff training and development.

6. Religion and Belief

6.1 The Scottish Government collects information on the experiences of religious groups in relation to healthcare services. There are differences in the experiences of patients of different religions or beliefs compared to Christian patients. However, the experience of Church of Scotland patients, Roman Catholics and other Christians were very similar. It is important to note that the variations in experience could reflect real inter-group differences in the quality of services received, or inter-group differences in subjective factors such as expectations, perceptions or the way questions are answered, or some combination of these factors[18].

6.2 With regards to Human Rights impact, the ERG expressed the view that there could be a negative impact on right to respect for religion if an increased number of home-based workers are not sensitive to cultural and religious practices maintained within the home. This was viewed as a potential impact on all population groups but particularly black and minority ethnic (BME) communities[19].

SG Response

6.3 We will continue to engage with representative religious groups to monitor the experiences of those accessing services. This will include contacting further organisations/groups to gain stakeholder views which will help to inform the integration authorities to better plan and implement integrated services.

6.4 The Integration Workforce Development Strategy Group[10] will ensure that workforce issues including cultural outcomes is appropriately taken into account in staff training and development.

7. Privacy Impact Assessment – Data Sharing

7.1 The consultation has raised questions about how information can be accessed efficiently to ensure that the patient's needs are met efficiently. Questions included: How can data be shared between NHS, social care

[18] The Scottish Government Evidence Finder
http://www.scotland.gov.uk/Topics/People/Equality/Equalities/DataGrid/Religion/RelHealth
[19] Variations in the Experience of Inpatients in Scotland: Analysis of the 2010 Inpatient Survey
http://www.scotland.gov.uk/Publications/2011/08/29131615/6

providers and carers? What are the concerns of patients/staff over sharing personal data and how can they be overcome?

SG Response

7.2 We are committed to improving the experience of people using health and social care services. Giving practitioners the IT they need to share information and provide joined-up care is crucial to this. The eHealth Strategy sets out the Scottish Government's commitment to work with local authorities and Health Boards to develop an IT strategy that not only focuses on health and social care collaboration and integration, but that clearly articulates the technical developments that will be necessary. This will place greater emphasis on partnership working, the need to develop information sharing systems across health and social work to support the delivery of appropriate community based services, and to ensure information is available across health, social services and the third sector to support care for individuals.

7.3 The Health and Social Care Information and Technology Strategy, being developed by eHealth[20] colleagues, will have a privacy strand to it, and further detail on the impact of the legislation will be covered there. There has already been some initial engagement via a short life working group looking at the use of identifiers, such as the CHI, for supporting integrated working. This has involved, among others, the Information Commissioner's Office (ICO). The ICO have advised that a full Privacy Impact Assessment is not necessary for the Bill and instead matters can be handled by liaising with local partners, responsible for the delivery of services, to ensure the appropriate information risk assessments are carried out.

7.4 Integration authorities will be encouraged to carry out a Privacy Impact Assessment for their local area to identify and address any potential impacts of the policy.

8. Criminal Justice

8.1 Within the partial EQIA, there were questions raised over where criminal justice health and social care will fit into an integrated system and whether any links already established would be weakened or strengthened. It was asked whether there is also a benefit from health care for prisoners, which is delivered by NHS and therefore already in the fold in an integrated system.

8.2 A question about how the policy would affect victims of crime was raised, with particular reference to the voluntary sector, given their role in this area and whether there would be an impact on any future funding.

[20] eHealth Strategy http://www.scotland.gov.uk/Topics/Health/Quality-Improvement-Performance/eHealth

SG Response

8.3 The NHS is responsible for delivering specialist healthcare for prisoners and healthcare services to people serving their sentences in the community.

8.4 In addition to healthcare activities, Criminal Justice Social Workers working inside and outside prisons, are local authority employees. Also, eight Community Justice Authorities (CJAs) support better information sharing, sharing of good practice, and distribute funding for criminal justice social work services in local areas, ensuring that this is used effectively to improve the management of offenders to reduce re-offending. The CJAs have local councillors as members and are linked to local authorities, monitor and report on the effectiveness of joint working between all local partners (including police forces, Health Boards, relevant voluntary organisations, the Scottish Courts Service and the Crown Office).

8.5 Given the current approach, there do not appear to be additional disadvantages to health and social care services to prisoners from health and social care integration. Integration may provide an opportunity to improve the co-ordination and quality of services to offenders, ex-offenders and their families e.g. through appropriate exchange of information between healthcare and social services in areas such as drug and alcohol services, housing, employment and training, financial support and child protection. Throughcare services could be more responsive when a prisoner is released from prison, when the prisoners and their families are most vulnerable, if health and social care services are better integrated, strengthening any established links.

9. Actions – Monitoring and Review

The Bill will bring forward legislation to remove Community Health Partnerships from statute. Instead, the Bill will create an integration authority which will be the joint and equal responsibility of Health Boards and local authorities. The integration authorities will each be responsible for developing an EQIA, Human Rights and Privacy Impact Assessment for monitoring and evaluating implementation of the policy within their local area. Partnerships will be expected to take account of the findings from the Scottish Government's EQIA and ongoing advice from the Equality Reference Group.

10. Conclusion

10.1 The EQIA has confirmed that the provisions of the Bill will not directly or indirectly discriminate on the basis of age, disability, gender, gender reassignment, sexual orientation or race and belief. The aims of the Bill are focussed on improving outcomes for people by providing consistency in the quality of services, ensuring people are not unnecessarily delayed in hospital and maintaining independence by creating services that allow people to stay safely at home for longer.

10.2 The EQIA has informed the Bill process, including plans for the implementation of the policy. In response to stakeholder feedback, we have redefined the initial focus on improving outcomes for adults with multiple long term conditions and complex support needs rather than older people which implies an 'age criteria'.

10.3 The Scottish Government expect integrated partnership arrangements to include undertaking the appropriate level of impact assessment of their plans for integration. This is to ensure that the development of integrated services do not have a negative effect on Scotland's diverse population and potentially deepen existing health inequalities often caused by a combination of socio-economic disadvantage and equality characteristics. NHS Boards and local authorities will have their own approaches to undertaking impact assessment and should discuss this with their Equality and Diversity lead for advice and support.

10.4 We would encourage integrated authorities to access the valuable resources developed by NHS Health Scotland. For example, guidance and resources[21] to support Health Inequalities Impact Assessment and the suite of briefings[22] produced to support Community Planning Partnerships in taking action on inequalities. The briefings relate to each of the Single Outcome Agreement policy priorities.

10.5 The EQIA has also raised the importance of considering Human Rights and Privacy. The Scottish Government will encourage Partnerships to undertake impact assessments for both Human Rights and Privacy. The Scottish Human Rights Commission[23] provides information to support the development of a Human Rights Impact Assessment, including guidance and tools. The Information Commissioner's Office (ICO)[24] provides guidance on Privacy Impact Assessment.

10.6 Staff training and development will be integral to ensuring positive impacts across the equality characteristics. Particularly to increase understanding of the needs of ethnic minority communities, adapting to meet requirements of different religions and beliefs; and to increase understanding of the needs of Lesbian, Gay, Bisexual and Transgender. It will be important to engage with service users, carers and their families to ensure that services are designed and delivered with the person's needs at the centre.

10.7 Finally, for the Bill to achieve the desired outcomes, partnerships will need to work differently. Legislation alone will not achieve the desired improvements. Good leadership, communication and training will be key to support staff through the transition. Data sharing will need to be considered

[21] NHS Health Scotland: Advancing Equality in Health
http://www.healthscotland.com/Equalities/index.aspx
[22] Health inequalities briefings for Community Planning Partnerships
http://www.healthscotland.com/documents/20687.aspx
[23] The Scottish Human Rights Commission http://www.scottishhumanrights.com/
[24] ICO: Privacy Impact Assessment
http://ico.org.uk/for_organisations/data_protection/topic_guides/privacy_impact_assessment

and streamlined. We will work closely with stakeholders throughout the implementation process. We will also develop guidance to support stakeholders to embed the policy.

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

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