The Public Bodies (Joint Working) (Scotland) Act 2014

Draft Regulations - Sounding Board Notes

Attendees

Gillian Barclay, Scottish Government

Doug Bradley, British Red Cross

Stuart Cable, NHS Education for Scotland

Christopher Doyle, The ALLIANCE

Angela MacLeod, Stroke Scotland

Paul Mooney, Addictions Support & Counselling (ASC) – Forth Valley

Linda Morrow, Chest Heart & Stroke Scotland

Lesley Munro, Voluntary Health Scotland

Robin Parker, Barnardo's Scotland

Claire Stevens, Voluntary Health Scotland

Sounding Board Format

The regulations have been published for consultation in two sets detailed below. The sounding board followed these consultation sections in order – text in purple reflects the sounding board discussions.

Consultation 1 – Functions and Outcomes
Monday 12 May 2014 – Friday 1 August 2014

Consultation on the first set of draft Regulations covers:

1. Information to be included in the Integration Scheme

2. Delegation of functions - prescribed functions:
    - that must be delegated by Local Authorities
    - that must be delegated by a Health Board
    - conferred on a Local Authority officer

3. National Health and Wellbeing Outcomes

4. Interpretation of what is meant by the terms health and social care professionals

Consultation 2 – Membership and Consultation
Tuesday 27 May 2014 – Monday 18 August 2014

Consultation on the second set of draft Regulations covers:

- Membership:
  - Establishment, membership and proceedings of the joint monitoring committee in lead agency arrangements
  - Membership, powers and proceedings of integration joint boards in body corporate arrangements
  - membership of strategic planning groups

- Consultation - groups which must be consulted when drafting integration schemes, for:
  - draft strategic plans,
  - localities,
  - revised integration schemes

- Performance - form and content of performance reports

Gillian Barclay, Scottish Government highlighted that regulations are high-level and need to stand up to legal scrutiny or challenge, the key documents around implementation will be the guidance documents which will be developed between August and December.

The Regulations proposed in Consultation 1 are subject to affirmative procedures, which require the approval of the Parliament to allow the provisions to come into force. The Regulations proposed in consultation 2 are subject to negative procedure, which do not require consent, but where the provisions can be annulled by the Parliament.

Consultation 1 - Information to be included in the Integration Scheme

The "Integration Scheme" is a document to be prepared by the Local Authority and the relevant Health Board, for each Local Authority area (32 areas in Scotland).

The Integration Scheme will set out models of integration that the Health Board and Local Authority have agreed and the processes and procedures that will make this happen. The two models of integration are where:

1. The Local Authority and Health Board delegate functions to an 'integration joint board', to plan and deliver integrated services
2. The Local Authority and Health Board delegate functions to the other to provide a Lead Agency model.

The Act details a number of things that must be included in each Integration Scheme. The draft regulations lay out additional information that should be included in each Integration Scheme.

Is the prescribed information included in the scheme sufficient?
Is there anything additional that should be included in the regulations?

Preparation of schemes
Provisions in the Integration scheme contained inconsistencies in regards to the inclusion of staff, carers, third sector, service users. Where more than one local authority is in one Health Board area, the local authorities and the Health Board must jointly prepare an integration scheme including:

- Arrangements for representation on joint boards, including representatives of staff, carers, service users and the third sector

There is no such provision in the sections where the public bodies are in the same local authority and Health Board area.

Performance and reporting
There may be potential issues related to performance targets, improvement measures and reporting arrangements, specifically in areas where there may be more than one local partnership. There could also be tensions around the politicisation [of health] due to local councillor involvement.

Workforce Development
The regulations specifically ensure the delegated health/local authority workforce has to be included in plans to develop and support staff. The third sector is not included in these plans – it is important that proposed workforce development plans consider the full workforce in its entirety rather than simply statutory bodies. These arrangements are open to include the third sector workforce, for example, at the decision of local partnerships.

Participation and engagement
Reference was made to the interface between the Public Bodies Act and the current Community Empowerment Bill and potential standards for community engagement. However, as this is unpassed legislation and these [standards] are not included on the face of the Public Bodies Act, they cannot be included in regulations.

There was consensus that consultation in the development of integration schemes is not sufficient, rather engagement and involvement in decision making should be included. However, the wording reflects the requirements that are laid out in the primary legislation. It was suggested that the accountability mechanisms governing partnerships/agencies gives the opportunity to report openly on how people have been consulted.

Information Sharing
There may be potential difficulties regarding the flow and sharing of information across statutory bodies and also across all partners. This should also include people who use support and services, the third sector and representative groups. An apparent omission was that of criminal justice agencies, notably the Scottish Prison Service, which aren't included in this legislation.

Complaints
It was recognised that, due to differing legislation, a single complaints system isn't legally possible/practicable. However, partnerships should develop a single point of entry to the complaints systems.

Children's Services
There are also issues regarding children and young people's services that may be included in integration. In areas where partnerships choose to integrate children's services, could there be a requirement for a children's sub-committee in those areas, to ensure services aren't compromised with the focus on adult integration.

Consultation 1 - Delegation of functions - prescribed functions

The Act provides for Scottish Ministers to prescribe in regulations the functions of a local authority and Health Board that must be delegated to the integration authority. These functions are considered by Scottish Ministers to be key to the establishment and promotion of a comprehensive and integrated health and social care service across Scotland.

Do you agree with the list of functions included which must be delegated?

These functions are well established in existing Acts of Parliament. Any additions to this need to be functions already existing within a legal framework.

Local Authorities
Some limited housing functions – housing support, aids and adaptations – have been included in the list of local authority functions.

Health Boards
Scottish Government has issued Health Boards with a CEL [chief executive letter] to clarify the position on A&E services. This is included as it is the entry point to health and care for many people.

Further explanation is required around the term 'health visiting' and 'Women's health services – to include family planning'. For example does the former include adult and child visits? And does the latter include men's sexual health services?

The functions list public health dental services and health promotion. Does this include public health?

Consultation 1 - National Health and Wellbeing Outcomes

The draft regulations set out the national health and wellbeing outcomes that will underpin the process of integration.

Do you agree with the prescribed National Health and Wellbeing Outcomes? Do you agree that they cover the right areas?

Overall, the outcomes were felt to be very important, and there should be significant focus on getting them right. There was consensus that the wording of the outcomes were unduly and overwhelmingly health oriented.

It was also noted by some attendees that the outcomes are worded as though the beneficiary was someone with disability/long term condition/frail elderly. This may exclude other health and care users, for example, people with mental health issues or drug and alcohol problems. In particular Outcome 2 should be amended:

Outcome 2 – People, including those with disabilities, long term conditions, or who are frail, are able to live, as far as reasonably are able to live, as far as reasonably practicable, independently and at home or in a homely setting in their community.

The following should be removed - "including those with disabilities, long term conditions, or who are frail".

In addition, it was noted that Outcomes 1, 2 and 4 could be potentially contradictory. For example, someone could be able to live independently at home, with health and care needs met, but this does not ensure improved health and wellbeing, a positive experience or dignity. The nine outcomes will need to be considered and applied holistically not stand alone.

Further proposed considerations include:

Outcome 4. Health and social care services are centred on helping to maintain or improve the quality of life of service users.	This outcome could be strengthened by referencing capacity building to realise life chances or potential, instead of merely improving quality of life.
Outcome 5. Health and social care services contribute to reducing health inequalities.	This outcome could be strengthened to include 'preventing' and 'undoing' health inequalities and not merely 'reducing' them. It was further noted that there is no focus on addressing social exclusion and poverty, which is an essential part of tackling inequalities.
Outcome 6. People who provide unpaid care are supported to reduce the potential impact of their caring role on their own health and well-being.	This outcome is focuses on mitigating negative consequences of caring and does not encapsulate the positive elements of unpaid care or carers' rights.
Outcome 7. People who use health and social care services are safe from harm.	Contradictions are also apparent in relation to this outcome, in particular, there is a tension between the need to keep people safe from harm and the need to enable and support people to live independently, make their own choices and consequently take risks.
Outcome 9. Resources are used effectively in the provision of health and social care services, without waste.	The use of the term "without waste" needs to be amended. Wording could include reference to using resources effectively to ensure preventative and anticipatory care.

Consultation 1 – terminology - health and social care professionals

The Act contains the phrases 'health professionals' and 'social care professionals'. These Regulations describes what is meant by these terms and to whom they refer.

Social work students are included under social care professionals, but medical or nursing students are not included in this list.

There is also a significant emphasis on children and young people in the Social Care Professionals list. However, the Act and regulations do not automatically include children and young people – this is left to the discretion of the integration authority. Should there be a requirement for a children's sub-committee in those areas?

Do you believe that the draft Regulations will effectively achieve the policy intention of the Act?

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

Plainer English is required to ensure the regulations can be understood by all.

The regulations also do not adequately/appropriately address what is required for people in certain situations/categories, for example:

- children
- young people
- people in prison
- people with alcohol and drug problems, and
- people with poor mental health.

Consultation 2 - Consultation

The Regulations prescribe who must be consulted:

- When preparing Integration Schemes
- In the development of the strategic plan
- For locality planning, and
- When revising Integration Schemes.

This section was not discussed at the Sounding Board due to time restrictions.

Consultation 2 - Membership

The regulation makes provision for how Integration Joint Boards and Joint Monitoring Committees operate.

Integration Joint Board – established when the Local Authority and Health Board have chosen to form a new integrated Board with the responsibility to lead on health and social care integration.

Joint Monitoring Committee - established when the Local Authority and Health Board have chosen to use a lead agency model of integration:

- The Health Board may delegate functions and resources to the Local Authority
- The Local Authority may delegate functions and resources to the Health Board, or
- The Health Board and the Local Authority may delegate functions to each other.

The integration joint monitoring committee holds the lead agency to account for the delivery of integrated services, can make recommendations and provides ongoing scrutiny and joint accountability of the integrated arrangements.

Are there any additional non-voting members who should be included in the Integration Joint Board?

Voting members - Possible tensions were highlighted in relation to voting members of the Board, due to the level and nature of political involvement of Local Authority representatives. Health Boards are not subject to the same political influences.

Non-voting advisory members for Integration Joint Boards – There are possible tensions about representation, and difficulties associated with this.

Attendees also highlighted that the lack of voting rights for third sector organisations in Integration Joint Boards.

Strategic planning group membership

The integration planning principles state that services should be "planned and led locally in a way which is engaged with the community (including those who look after service-users and those who are involved in the provision of health and social care)".

Under the Act, each Integration Authority must establish a Strategic Planning Group, who must be consulted during the preparation, review and amendment of the strategic plan.

Do you think the groups of people listed are the right set of people that need to be represented on the strategic planning group?

Attendees again raised issues surrounding representation of, and for, the third sector in partnerships.

Consultation 2 - performance report

Each Integration Authority must prepare an annual performance report. Where applicable, there will also be a requirement for each annual report to include a comparison with at least the five preceding years.

This section was not discussed at the Sounding Board due to time restrictions.

Next Steps

These notes and discussions with other colleagues across the voluntary health sector will inform the Voluntary Health Scotland consultation responses – these will be shared with Voluntary Health Scotland members and available on the Voluntary Health Scotland website.

The regulations will be finalised by Late 2014 and associated guidance will be developed by Scottish Government August – December 2014.

Further Information

For further information on the Act or to get involved with Voluntary Health Scotland engagement exercises around these consultations, contact Susan Lowes, Policy and Engagement Officer at susan.lowes@vhscotland.org.uk

Voluntary Health Scotland

Voluntary Health Scotland is the national intermediary for a network of voluntary health organisations and workers. Our members range from large national health charities to small, local service providers, and members' interests span service planning and provision, prevention, early intervention, self-management, advocacy, and support for service users and carers.

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