

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



Briefing Paper – Draft Regulations

Introduction

The Public Bodies (Joint Working) (Scotland) Act 2014 received Royal Assent on 1 April 2014. The aim of the Act is to integrate health and social care in Scotland, to improve services for people who use them. Integration aims to ensure that health and social care provision across Scotland is joined-up and seamless, especially for people with long term conditions and disabilities.

To accompany this Act, Scottish Ministers will put in place a number of regulations and orders (secondary legislation) that will inform local level integration. These draft regulations have been developed in collaboration with stakeholders and Scottish Ministers have committed to consult widely on these.

This marks the beginning of the consultation process, the final versions of each the regulations will be laid before Parliament from late September 2014, before coming in to force by the end of 2014.

Consultations

The regulations have been published for consultation in two sets detailed below. This paper outlines both sets of consultations.

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

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Consultation 1 – Functions and Outcomes

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.

Four models of integration:

1. The Local Authority and Health Board delegate functions to an ‘integration joint board’, to plan and deliver integrated services

Lead Agency

2. The Local Authority delegates functions to the Health Board
3. The Health Board delegates functions to the Local Authority
4. The Local Authority delegates functions to the Health Board and the Health Board delegates functions to the Local Authority.

The Act detailed a number of things that must be included in each Integration Scheme. These draft regulations lay out the following additional information that should be included in each Integration Scheme:

Prescribed matters	Prescribed information to be included in the Integration Scheme
Local governance arrangements for integration joint boards	<p>Where the public bodies are in the same local authority and Health Board area, schemes must include:</p> <ul style="list-style-type: none">• The number of members to be appointed from the Local Authority and Health Board• Whether the Chairperson of the Joint Board will from the Local Authority or Health Board and their terms of office <p>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:</p> <ul style="list-style-type: none">• The number of members to be appointed from the Local Authority and Health Board• Arrangements for representation on joint boards, including representatives of staff, carers, service users and the third sector• Arrangements for appointment of the Chairperson and vice-chairperson and their terms of office.
Local governance arrangements for the integration joint monitoring committee	<p>Where the public bodies are in the same local authority and Health Board area, schemes must include:</p> <ul style="list-style-type: none">• The number of members to be appointed from the Local Authority and Health Board• Details of additional members, over and above required members• Administrative and financing information.

	<p>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:</p> <ul style="list-style-type: none"> • The number of members to be appointed from the Local Authority and Health Board • Arrangements for representation on joint boards, including representatives of staff, carers, service users and the third sector • Arrangements for appointment of the Chairperson and changes to the chairperson • Administrative and financing information.
Performance targets, improvement measures and reporting arrangements	Each scheme must outline the process to be used to prepare a list of all targets, measures and arrangements related to integrated or delegated functions.
Clinical and care governance	Each scheme must outline the arrangements for clinical and care governance.
The operational role of the chief officer	<p>Each scheme must include information on</p> <ul style="list-style-type: none"> • The structure and procedures used to enable the chief officer to work with senior managers to carry out the strategic plan. • Descriptions of line manager arrangements
Plans for workforce development	<p>Each scheme must include a list of the plans including</p> <ul style="list-style-type: none"> • A plan of development and support for staff • A plan of development and support relating to organisational development • The number of staff who may need to transfer to another constituent authority
Finance	<p>Each scheme must include details of financial management including</p> <ul style="list-style-type: none"> • Arrangements for maintaining financial ledgers • Scheduling of payments • Financial reporting and monitoring •
Participation and engagement	<p>Each scheme must include</p> <ul style="list-style-type: none"> • A list of people consulted in the development of the integration scheme, • Details of the consultation undertaken in the development of the scheme • The process for developing a strategy for engagement with members of the public, representative groups and other organisations. •
Information sharing and data handling	Each scheme must include an information sharing “accord”, that will be adhered to and outlining the process that will apply to the sharing of information between Local Authority, Health Board and Integration Authority.
Complaints	Each scheme must spell out the arrangement for management of complaints, to include information on the process by which a service

	user may make a complaint.
Handling Claims	Each scheme must spell out the arrangements for the management of claims, and indemnity, arising from integration functions
Risk Management	Each scheme must spell out the risk management strategy in relation to the carrying out of integration functions.
Dispute resolution	Integration schemes must include the procedure that will be used to resolve any dispute between the local authority and Health Board.

Questions

Do you agree with the prescribed matters to be included in the Integration Scheme?

Are there any additional matters that should be included within the regulations?

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.

The draft regulations include the following functions which must now be delegated to the integration authority for persons of at least 18 years of age (inclusion of children's services are to be left to the discretion of local partners):

Local Authorities

- Social work services for adults and older people
- Services and support for adults with physical disabilities, learning disabilities
- Mental health services
- Drug and alcohol services
- Adult protection and domestic abuse
- Carers support services
- Community care assessment teams
- Support services
- Care home services
- Adult placement services
- Health improvement services
- Housing support services, aids and adaptations
- Day services
- Local area co-ordination
- Respite provision
- Occupational therapy services
- Re-ablement services, equipment and telecare

Health Boards

The following sets out the healthcare functions that **may** be delegated. They only **must** be delegated to the extent that they are exercised in relation to healthcare services.

- Unplanned inpatients
- Outpatients – Accident & Emergency
- Care of Older People (previously known as geriatric medicine)
- District Nursing
- Health Visiting
- Clinical Psychology
- Community Mental Health Teams
- Community Learning Difficulties Team
- Addiction Services
- Women's Health Services (includes family planning services)
- Allied Health Profession Services
- GP Out-of-Hours
- Public Health Dental Service (previously known as community dental services)
- Continence Services
- Home Dialysis
- Health Promotion
- General Medical Services (GMS)
- Pharmaceutical services - GP prescribing

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

Local Authority officer

The draft regulations prescribe certain functions of officers of local authorities to the integration authority. The effect of these regulations is that a person who is an officer of a Health Board (or any other local authority) with which the local authority has made joint working arrangements may complete these functions.

A person who is not an officer of a local authority may only exercise the prescribed functions for the area of that local authority if they meet the criteria set out in the section of the Adult Support and Protection (Scotland) Act relevant to the function in question.

National Health and Wellbeing Outcomes

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

These outcomes will provide a consistent framework against which each integration authority will have to plan, report and account for its activities. This will enable the Health Board, local authority, Scottish Ministers and the public to assess progress made to improve outcomes locally.

Outcome	Policy Background
Outcome 1: People are able to look after and improve their own health and wellbeing and live in good health for longer.	<p>Integrated health and social care services must be planned for, and delivered, in person-centred ways that enable and support people to look after and improve their own health and wellbeing.</p> <p>Scottish Government aims to promote action to support a Scotland where people have the information, means, motivation to live a healthy life for as long as possible – through identifying individual, familial and community assets.</p>
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 in their community.	<p>Successful integration of health and social care services will provide for more people to be cared for and supported at home or in a homely setting.</p> <p>This outcome aims to ensure delivery of community based services, with a focus on prevention and anticipatory care. Scottish Government is committed to support the reshaping of services to better care for and support the increasing number of people with complex needs in Scotland.</p>
Outcome 3. People who use health and social care services have positive experiences of those services, and have their dignity respected.	<p>It is important that health and social care services take full account of the needs and aspirations of the people who use services.</p> <p>Person centred planning and delivery of services will ensure that people receive the right service at the right time, in the right place, and services are planned for and delivered for the benefit of people who use the service.</p>
Outcome 4. Health and social care services are centred on helping to maintain or improve the quality of life of service users.	<p>Everyone should receive the same quality of service no matter where they live.</p> <p>This outcome provides for an on-going focus on quality and continuous improvement in relation to health and social care services.</p>
Outcome 5. Health and social care services contribute to reducing health inequalities.	<p>This outcome reflects the contributory role that health and social care services have in addressing health inequalities.</p>
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.	<p>This outcome reflects the importance of ensuring that health and social care services are planned and delivered with a strong focus on the wellbeing of unpaid carers.</p>
Outcome 7. People who use health and social care services are safe from harm.	<p>In carrying out their responsibilities under this Act, Health Boards, Local Authorities and Integration Authorities must ensure that the planning and provision of health and social care services protects people from harm.</p>
Outcome 8. People who	<p>This outcome ensures that people who work in health and social</p>

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.	care services are supported and feel engaged with their work in order to improve the care for, and experience of service users.
Outcome 9. Resources are used effectively in the provision of health and social care services, without waste.	<p>Health and social care services should be integrated from the perspective of the person receiving care.</p> <p>Preventative and anticipatory care can play a particularly important role in achieving better outcomes for people with multiple complex needs.</p> <p>Health and social care services must be planned for, and delivered, in ways that make best use of available resource while at the same time optimising outcomes for patients and service users.</p>

Questions

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

If not, which additional areas do you think should be covered by the Outcomes?

Do you think that the National Health and Wellbeing Outcomes will be understood by users of services, as well as those planning and delivering them?

What is meant by the terms 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:

Health professionals

- Chiropractors
- Dentists, dental nurses, dental technicians clinical dental technicians, dental hygienists, dental therapists
- Doctors
- Optometrists, dispensing opticians, student opticians and optical businesses
- Osteopaths
- Arts therapists, biomedical scientists, chiropodists/podiatrists, clinical scientists, dieticians, hearing aid dispensers, occupational therapists, operating department practitioners, orthoptists, paramedics, physiotherapists, practitioner psychologists, prosthetists /orthotists, radiographers, and speech and language therapists
- Pharmacists and pharmacy technicians
- Nurses and midwives

Social Care professionals

- Social workers
- Social work students
- Care Inspectorate Authorised Officers
- Managers, workers with supervisory responsibilities and residential child care workers in residential childcare services
- Managers in adult day care services
- Managers, workers with supervisory responsibilities, practitioners and support workers responsible for care homes services for adults
- Managers, practitioners and support workers responsible for day care of children services
- Managers, supervisors and house staff within school hostels, residential special schools and independent boarding schools
- Managers supervisors and workers responsible for housing support services
- Managers supervisors and workers responsible for care at home services
- Other Social Care Professionals who are not regulated by the Scottish Social Services Council but who provide care or support to users of social care services

Questions

Do you agree that the groups listed under 'health professional'?

Do you agree that identifying Social Workers and Social Service Workers through registration with the Scottish Social Services Commission is the most appropriate way of defining Social Care Professionals?

What other methods of identifying professional would you see as appropriate?

Further Questions

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?

Consultation 2 – Membership and Consultation

Consultation

These 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.

Local Authority and Health Boards must jointly consult the groups outlined below.
They must also consult with any other persons that they think fit.

Standard prescribed persons

- Health professionals
- Users of health care
- Carers of users of health care
- Commercial providers of health care
- Non-commercial providers of health care
- Social care professionals
- Users of social care
- Carers of users of social care
- Commercial providers of social care
- Non-commercial providers of social care
- Non-commercial providers of social housing, and
- Third sector bodies carrying out activities related to health or social care.

In the preparation of the **Integration Scheme** and subsequent revision, the following must also be consulted (in addition to the standard prescribed persons):

- Staff of the Local Authority likely to be affected by the Integration Scheme
- Staff of the Health Board likely to be affected by the Integration Scheme, and
- Other Local Authorities operating within the area of the Health Board preparing the Integration Scheme.

The Local Authority and Health Board will be expected to allow access to the draft **Integration Scheme** and **Strategic Plan** in order for consultees to express their views.

Under **locality planning**, when an Integration Authority proposes to take a decision which might significantly affect the provision of services in a locality, they must involve and secure the views of the groups of the standard prescribed persons and the following:

- Staff of the Health Board
- Staff of the Local Authority, and
- Residents of the locality.

Questions

Do these draft Regulations include the right groups of people?

If no, what other groups should be included within the draft Regulations?

Membership, powers and proceedings of Integration Joint Boards

This regulation makes provision for how Integration Joint Boards operate. It includes membership of the board, which members may vote, and other procedures relating to the operation of the board.

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.

It also enables Integration Joint Boards to enter into agreements or contracts which are necessary for them to carry out their duties under the Act. For example, obtaining professional advice such as legal or accounting, or when making arrangements in relation to premises, equipment and staff.

Membership

There are two categories of membership for the Integration Joint Board; voting members and non-voting advisory members.

Voting members - representatives nominated by the Health Board and Local Authority.

- The Local Authority and the Health Board must nominate the same number of representatives to sit on the Integration Joint Board
- The Health Board and the Local Authority must agree on the number of representatives that they will each nominate
- The Health Board and Local Authority must put forward a minimum of three nominees each, however Local Authorities can require that the number of nominees is to be a maximum of 10% of their full council number
- The Local Authority will nominate councillors to sit on the Integration Joint Board
- The Health Board will primarily nominate non-executive directors to sit on the Integration Joint Board
- A Health Board must have at least two non-executive directors on each of the Integration Joint Boards created within their geographical area
- Where the Health Board is unable to fill all their places with non-executive directors they can then nominate other appropriate people, who must be members of the Health Board, to fill their spaces

To ensure equality in voting, the voting members from the Health Board and Local Authority will be equal in number. The Chairperson and Vice Chairperson will be

drawn from the Health Board and Local Authority voting members. In the event of a stalemate the Chairperson will have a casting vote. The appointment to Chairperson and Vice Chairperson is time-limited and carried out on a rotational basis.

Non-voting advisory members - key prescribed representatives.

The minimum non-voting advisory membership for each Integration Joint Board is:

- A registered health professional employed and nominated by the Health Board
- Chief Social Work Officer
- A staff-side representative
- A third sector representative
- A carer representative
- A service user representative
- Chief Officer

The regulations also provides for the Integration Joint Board to appoint such additional non-voting members as it sees fit.

The regulations further provide provisions for the management of membership including terms of office, appointment, disqualification, removal and resignation.

Standing orders

This regulation contains a Schedule, which set out what is to be included in the standing orders prepared by each Integration Joint Board. These include provision in relation to calling meetings, notice of meetings, quorum, conduct of meetings, deputies, conflict of interest and records.

Questions

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

Are there any other areas related to the operation of the Integration Joint Board that should also covered by this draft Order?

Establishment, membership and proceedings of Joint Monitoring Committees

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.

This regulation covers the operation of integration joint monitoring committees.

Membership

The minimum requirement for the membership of the integration joint monitoring committee includes:

- Three councillors nominated by the Local Authority
- Three persons nominated by the Health Board (at least two non-executive directors and another member of the Health Board)
- The Chief Social Work Officer of the Local Authority
- A registered health professional employed and nominated by the Health Board
- Health Board Director of Finance (where the Integration Authority is the Health Board) or the Local Authority Section 95 Officer (where the Integration Authority is the Local Authority)
- Staff-side representative from the Health Board (where the Integration Authority is the Health Board) or a staff-side representative from the Local Authority (where the Integration Authority is the Local Authority)
- Third Sector representative
- Service user representative, and
- Carer representative.

It also allows flexibility for additional members to be added.

The integration joint monitoring committee is to seek and recruit the staff-side, third sector, carer and service user representatives once the integration joint monitoring committee is established. The Scottish Government will provide guidance about the most appropriate way of doing this and if there are key groups that should be involved.

The regulations further provide provisions for the management of membership including terms of office, appointment, disqualification, removal and resignation.

Standing orders

This regulation contains a Schedule, which set out what is to be included in the standing orders prepared by each Integration Joint Board. These include provision in relation to calling meetings, notice of meetings, quorum, conduct of meetings, deputies, conflict of interest and records.

Questions

Do you agree with the proposed minimum membership of the integration joint monitoring committee, as set out in the draft Order?

Are there any other areas related to the operation of the integration joint monitoring committee that should also covered by the draft Order?

Prescribed membership of strategic planning group

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.

As part of the strategic planning process, Integration Authorities will be required to:

- Embed patients/clients and their carers in the decision making process
- Treat the third and independent sectors as key partners, and
- Involve GPs, other clinicians and social care professionals in all stages of the planning work, from the initial stages to the final draft.

The people that must be represented on the Strategic Planning Group are:

- **Health professionals** who operate within the Local Authority area (*this should be an individual, representative of health professionals, including doctors, nurses, allied health professionals etc*)
- **Users of health care who reside within the Local Authority area** (*this should be an individual, representative of people who use health or social care services*)
- **Carers of users of health care who reside within the Local Authority area** (*this should be an individual, representative of carers of people who use health services*)
- **Commercial providers of health care who operate within the Local Authority area** (*this should be an individual, representative of the independent ‘for profit’ providers of health care services*)
- **Non-commercial providers of health care who operate within the Local Authority area** (*this should be an individual, representative of ‘third sector’, ‘voluntary’ or ‘not for profit’ providers of health care services*)
- **Social care professionals who operate within the Local Authority area** (*this should be a social service professional, with relevant social care qualifications*)
- **Users of social care who reside within the Local Authority area** (*this should be an individual, representative of people who use social care services*)
- **Carers of users of social care who reside within the Local Authority area** (*this should be an individual, representative of carers of people who use social care services*)
- **Commercial providers of social care who operate within the Local Authority area** (*this should be an individual, representative of the independent ‘for profit’ providers of social care services*)
- **Non-commercial providers of social care who operate within the Local Authority area** (*this should be an individual, representative of ‘third sector’, ‘voluntary’ or ‘not for profit’ providers of social care services*)
- **Non-commercial providers of social housing within the Local Authority area** (*this should be an individual, representative of providers of social housing*)

- **Third sector bodies within the Local Authority carrying out activities related to health or social care** (*this should be an individual, representative of interest groups, social enterprises or community organisations who are active in the area of health or social care*)

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

Prescribed form and content of performance report

Each Integration Authority must prepare an annual performance report. These regulations state that the report should include:

- Progress to deliver the national health and wellbeing outcomes
- Information on performance against key indicators or measures
- How the strategic planning and locality arrangements have contributed to delivering services that reflect the integration principles
- The details of any review of the strategic plan within the reporting year
- Any major decisions taken out with the normal strategic planning mechanisms
- An overview of the financial performance of the Integration Authority
- The extent to which Integration Authorities have moved resources from institutional to community based care and support, by reference to changes in the proportion of the budget spent on each type of care and support

And within a lead agency arrangement only:

- Any recommendations, and the response to those recommendations, made by the integration joint monitoring committee.

These elements will need to be reported on each year and, where applicable, there will also be a requirement for each annual report to include a comparison with at least the five preceding years.

Questions

Do you agree with the prescribed matters to be included in the performance report?

Are there any additional matters you think should be prescribed in the performance report?

Should Scottish Ministers prescribe the form that annual performance reports should take? What form should that take?

More information

This briefing reflects a summary of the two consultations draft Regulations and Orders that accompany the Public Bodies (Joint Working) (Scotland) Act 2014. This has been prepared for Voluntary Health Scotland members and we will be working in partnership with our members to provide a formal response to the consultation.

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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