

To: Social Work, Health and Well-being Policy Board

On: 13 January 2015

Report by: Director of Finance and Corporate Services

Heading: Update on the Regulations to accompany the Public Bodies (Joint Working) (Scotland) Act 2014

1. Summary

- 1.1 At its meeting on 19 August 2014, the Social Work, Health and Well-being Policy Board approved the Council's response to the Scottish Government's consultation on draft Regulations and Orders to accompany the Public Bodies (Joint Working) (Scotland) Act 2014 ("the Act").
 - 1.2 This report provides members with an update on the Regulations and Orders.
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2. Recommendations

- 2.1 Members are asked to note that:-
 - a. The Regulations and Orders came in to force in November and December 2014. Together with the Act, these set out the legislative requirements for the integration of health and social care services.
 - b. The deadline for submission of the Integration Scheme to the Scottish Ministers for approval is 1 April 2015.
 - c. The Integration Joint Board will be established by Order of the Scottish Ministers, once they have approved the Integration Scheme.

- d. The Chair of the Integration Joint Board will not now have a casting vote. Instead, the dispute mechanism in the Standing Orders for the conduct of meetings of the Integration Joint Board will require to state what happens in the event that a vote is tied.
 - e. The Regulations prescribe 1 April 2016 as the latest date by which the prescribed Council and Health Board functions must be delegated to the Integration Joint Board.
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3. Background

- 3.1 At its meeting on 19 August 2014, the Social Work, Health and Well-being Policy Board approved the Council's response to the Scottish Government's consultation on draft Regulations and Orders to accompany the Public Bodies (Joint Working) (Scotland) Act 2014 ("the Act").
 - 3.2 Following the consultation, a number of changes have been made to the Regulations and Orders in response to comments made by the Council and other consultees.
 - 3.3 The Regulations and Orders came into force in November and December 2014 and a Supporting Note has also been issued by the Scottish Government to provide further information on the scope of the health and social care functions to be included in integration. Further statutory guidance is expected to follow.
 - 3.4 Together with the Act, the Regulations and Orders set out the legislative requirements for the integration of health and social care services.
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4. Overview of the Regulations and Orders Made Under the Act

4.1 The Public Bodies (Joint Working) (Integration Scheme) (Scotland) Regulations 2014

These regulations prescribe matters which must be included in an Integration Scheme. They have not changed significantly following the public consultation but there is now a greater requirement to include in the Scheme timescales for tasks such as the preparation of plans and targets. Also, arrangements for the provision of support services must be set out in the Scheme (which was suggested in the Council's response) and there is no longer a requirement to include details of staff transfers (which requirement was queried in the Council's response.)

4.2 The Public Bodies (Joint Working) (National Health and Wellbeing Outcomes) (Scotland) Regulations 2014

These prescribe the National Health and Wellbeing Outcomes which are intended to provide a strategic framework for the delivery of health and social care services. Although the Council had raised concerns that a number of the outcomes were very broadly stated and, as such, open to interpretation, only minor changes to the wording of some of the outcomes have been made as a result of the consultation.

4.3 The Public Bodies (Joint Working) (Prescribed Health Board Functions) (Scotland) Regulations 2014

These prescribe the functions that may and must be delegated by Health Boards. The layout and content have changed from the earlier draft as the Scottish Government has recognised that existing health legislation generally describes the functions of Health Boards in very broad terms. Consequently, it has been necessary to include further description of the extent to which a particular function must be delegated. A Supporting Note has also been issued by the Scottish Government to provide further information on the scope of the functions to be included in integration.

The prescribed functions include health care services provided by health professionals within a hospital such as accident and emergency services, inpatient services, and mental health services; and health care services provided outwith a hospital such as primary medical services, district nursing, dental services, and ophthalmic services, whether or not these are provided by health professionals.

4.4 The Public Bodies (Joint Working) (Prescribed Local Authority Functions etc.) (Scotland) Regulations 2014

These prescribe the functions that must be delegated by Local Authorities and, following the consultation, several important changes have been made. For example, the requirement to delegate certain housing support services is now confined to aids and adaptations, and wider housing services such as homelessness and those relating to children's services have not been included. Further, certain statutory functions relating to local authority charges have been removed from the list and will remain Council functions.

The social care services included in the prescribed functions are:-

- Social work services for adults and older people
- Services and support for adults with physical disabilities and 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
- Aspects of housing support, including aids and adaptations
- Day services
- Local area co-ordination
- Respite provision
- Occupational therapy services
- Re-ablement services, equipment and telecare

4.5 The Public Bodies (Joint Working) (Integration Joint Boards) (Scotland) Order 2014

These detail the requirements for membership, powers and proceedings of Integration Joint Boards. Several changes have been made since the consultation, perhaps the most significant one being that the Chair will not now have the casting vote. Instead, the dispute mechanism in the Standing Orders for the conduct of meetings of the Integration Joint Board will require to state what happens in the event that a vote is tied.

Another important change is that where a Council voting member ceases, for any reason, to be a Renfrewshire Councillor, they are immediately removed from office. This change was requested in the Council's response.

4.6 The Public Bodies (Prescribed Consultees) (Scotland) Regulations 2014

These prescribe that the following persons or bodies as the standard consultees who must be consulted when the Integration Scheme is being prepared or revised or the Strategic Plan is being prepared.

- i) Health professionals;
- ii) Users of health care;
- iii) Carers of users of health care;
- iv) Commercial providers of health care;
- v) Non-commercial providers of health care;
- vi) Social Care professionals;
- vii) Users of social care;
- viii) Carers of users of social care;
- ix) Commercial providers of social care;
- x) Non-commercial providers of social care;
- xi) Staff of the Health Board and local authority who are not health professionals or social care professionals;
- xii) Non-commercial providers of social housing;
- xiii) Third sector bodies carrying out activities related to health or social care; and
- xiv) Other local authorities operating in the Health Board area.

Where a decision is to be taken which might significantly affect service

provision in a locality, the standard consultees and the residents of the locality must be consulted but only insofar as they are likely to have an interest in the decision.

4.7 The Public Bodies (Joint Working) (Local Authority Officers) (Scotland) Regulations 2014

These prescribe that certain functions conferred on a council officer by the Adult Support and Protection (Scotland) Act 2007 are deemed to have been conferred also on an officer of the Health Board provided that officer meets certain requirements.

The functions relate to investigations under sections 7 to 10 of the Act; assessment orders under section 11 of the Act; removal orders under section 14 of the Act; the right to remove adults at risk conferred by section 16 of the Act; and the requirement under section 18 of the Act to protect a moved person's property.

4.8 The Public Bodies (Joint Working) (Prescribed Days) (Scotland) Regulations 2014

These prescribe 1 April 2015 as the day by which the Integration Scheme must be submitted to the Scottish Ministers for approval. This means the Scheme must be negotiated, agreed and consulted upon prior to that date.

Once the Integration Scheme is approved, the Integration Joint Board will be established by order of the Scottish Ministers. Thereafter, the Integration Joint Board must prepare a Strategic Plan setting out the detailed arrangements for the carrying out of the integration functions and specifying the date that functions are to be delegated to it. The Regulations prescribe 1 April 2016 as the latest date for functions to be delegated.

If the Council and the Health Board fail to submit the Scheme by 1 April 2015, the Scottish Ministers are given certain default powers under section 51 of the Act to impose a Scheme and establish an Integration Joint Board and to require the Council and the Health Board to delegate, before 1 April 2016, such functions as the Scottish Ministers specify.

4.9 The Public Bodies (Joint Working) (Health Professionals and Social Care Professionals) (Scotland) Regulations 2014

These provide descriptions of persons who are defined as health professionals and social care professionals for the purposes of the Act. The Council had agreed that the proposed descriptions were appropriate and no significant changes have been made since the consultation.

4.10 The Public Bodies (Joint Working) (Membership of Strategic Planning Group) (Scotland) Regulations 2014

The Act requires each Integration Joint Board to establish a strategic planning group and these regulations prescribe the groups of persons who must be represented on that. Although the layout of these regulations has been amended, no changes have been made to the prescribed groups.

4.11 The Public Bodies (Joint Working) (Content of Performance Monitoring Reports) (Scotland) Regulations 2014

Several changes have been made to the content and layout of these regulations. They are more prescriptive about which performance reports are required and what must be included in these.

In its response to consultation, the Council had queried the relevance of the requirement for performance reports to include a comparison for the preceding 5 years, as the scope of changes that will have been made to services would not allow for a meaningful comparison. This point has been acknowledged, in part, and the regulations now require that where reports are available for the preceding 5 reporting years, these must be compared but, where there have been fewer than 5 reporting years, all available like reports must be compared.

Implications of the Report

1. **Financial** - The proposed model of integration through integrated budgets will have significant implications for the social work and Council budget.
2. **HR & Organisational Development** – Integrated service arrangements may have an impact on the staffing structure of the social work service and associated responsibilities and management arrangements as these are developed.
3. **Community Planning - Community Care, Health & Well-being** – The aim of integration of health and care services is to improve services for local people.
4. **Legal** – The legislative requirements in relation to the integration of health and social care services are set out in the Act and Regulations and Orders.
5. **Property/Assets** – Opportunities for further consolidation of the existing asset base may arise through integrated service arrangements.

6. **Information Technology** – Further integration of existing IT systems may be required under new integrated arrangements as these are developed.
 7. **Equality & Human Rights** - The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report because it is for noting only. If required following implementation, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Council's website.
 8. **Health & Safety** - none.
 9. **Procurement** - Integrated service arrangements will need to be supported by flexible, yet robust, procurement.
 10. **Risk** – Risk management arrangements will require to be developed on an integrated basis.
 11. **Privacy Impact** – none.
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List of Background Papers

1. The Public Bodies (Joint Working) (Integration Scheme) (Scotland) Regulations 2014
2. The Public Bodies (Joint Working) (National Health and Wellbeing Outcomes) (Scotland) Regulations 2014
3. The Public Bodies (Joint Working) (Prescribed Health Board Functions) (Scotland) Regulations 2014
4. The Public Bodies (Joint Working) (Prescribed Local Authority Functions) Regulations 2014
5. The Public Bodies (Joint Working) (Integration Joint Boards) (Scotland) Order 2014
6. The Public Bodies (Joint Working) (Prescribed Consultees) (Scotland) Regulations 2014
7. The Public Bodies (Joint Working) (Local Authority Officers) (Scotland) Regulations 2014
8. The Public Bodies (Joint Working) (Prescribed Days) (Scotland) Regulations 2014
9. The Public Bodies (Joint Working) (Health Professionals and Social Care Professionals) (Scotland) Regulations 2014

10. The Public Bodies (Joint Working) (Membership of Strategic Planning Group) (Scotland) Regulations 2014
11. The Public Bodies (Joint Working) (Content of Performance Reports) (Scotland) Regulations 2014

The foregoing background papers will be retained within Finance and Corporate Services for inspection by the public for the prescribed period of four years from the date of the meeting. The contact officer within the service is Lynn Mitchell, Managing Solicitor tel: 0141 618 7163 email: lynn.mitchell@renfrewshire.gcsx.gov.uk

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