ANNEX 1(D)

PROPOSALS FOR PRESCRIBED INFORMATION TO BE INCLUDED IN THE INTEGRATION SCHEME RELATING TO THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

CONSULTATION QUESTIONS

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

   Yes ☐

   No ☐

2. If no, please explain why:

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

   Yes ☐

   No ☐

4. If yes, please suggest:

5. Are there any further comments you would like to offer on these draft Regulations?

The following is the response made by Officers of the Council, and is subject to any comments that Elected Members may make:

1. All of the "prescribed matters" are not currently included in the latest version of the Model Integration Scheme.

2. More clarification is needed in respect of the role of the Integration Joint Board - is it intended that it has a "hands on" approach, meeting often and making key decisions in respect of operational matters, or is it anticipated that it will have a "strategic" role, meeting less often and focusing on performance and financial reporting?

3. Clarity is required on whether it is envisaged that the Strategic Planning Group will have a more operational role, with the Integration Joint Board having a more "high level" strategic role.

4. Clarity is required for how the Chief Financial Officer will interact with the Partners.

5. Clarity is required for what is meant by "Consultation" - is it intended to mean engagement and/or participation by Consultees?

6. If there can be more clarity regarding the roles and responsibilities of the Partnership, and how it is intended to operate, it will mean less likelihood of disputes arising. If there is still uncertainty or ambiguity however, disputes will be more likely to arise.

Please also see comments on the draft Model Integration Scheme in Appendix 1, at page 36 below, which was submitted in response to the Consultation on the Model Integration Scheme by the Society of Local Authority Lawyers and Administrators in Scotland (SOLAR) on 25 July 2014 and endorsed by the Council.

PROPOSALS FOR PRESCRIBED FUNCTIONS THAT MUST BE DELEGATED BY LOCAL AUTHORITIES RELATING TO THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

CONSULTATION QUESTIONS

1. Do you agree with the list of Local Authority functions included here which must be delegated?

Yes ☐

No ☒

2. If no, please explain why:

Please see the comments in box 3 below.

3. Are there any further comments you would like to offer on these draft regulations?

The following is the response made by Officers of the Council, and is subject to any comments that Elected Members may make:

It is the Council's view that if the Health and Social Care Partnership is to be as effective as it can be and establish stronger joint working arrangements and a different culture, it is necessary to ensure that the Regulations enable that to go forward in a way that promotes a sense of the Partnership being established on an equal footing.

The way in which the draft Regulations are framed causes the Council some concern. The proposals for Regulations for prescribed functions that must be delegated by the Local Authority in Annex 2(B) are drafted differently than the proposals for Regulations prescribing functions that may or must be delegated by a Health Board in Annex 3(A). The delegated functions of the Local Authority are drafted with considerable prescription whereas the delegated functions of the Health Board are, in some respects, drafted in quite a different way. This gives an inconsistent approach and a lack of clarity. There is a need for the two sets of delegated functions to be framed more closely and properly aligned.

There is a risk that the different approach to the relevant Regulations described above, and the lack of clarity, could create an imbalance in the extent of the strategic planning responsibilities and the delivery of functions that must be delegated by the Health Board compared with those that must be delegated by the Local Authority. The table of Health Services that must be included within integration on pages 47-50 of the draft Regulations states

that these "must be included within the scope of *integrated strategic planning*". This does not appear to require the Health Board to delegate delivery of any or all of these functions to the Partnership. However, the Schedule of delegated functions for the Local Authority on pages 32-39 provides clearly that all aspects of delivery of these services and functions must be delegated. This lack of parity in terms of prescribed delegation seems unreasonable and is undesirable.

The following are further comments by Officers of the Council:

1. For proper integration there should be one age for all services – health functions only apply to over 18's but some of the Local Authority functions apply from age 16 e.g. Adults with Incapacity, learning disabilities.

2. **Mental health**
   Why are Mental Health Officers (MHO's) not included? They are already "isolated" as practitioners. This is like excluding a CPN from a Community Mental Health Team. Regarding the issue of conflict of interest in applications for detention of patients, CTO's etc, MHO's should have duties of professional practice. Adults also have access to independent advocacy workers and the Mental Welfare Commission. Mental health issues and adults affected should be de-stigmatised, not treated differently. Adults rarely know that the MHO who prepares a report is independent of the medical practitioner making the request – they think the MHO and the psychiatrist are always united.

3. **Adults with Incapacity (AWI)**
   The powers to apply for Guardianship Orders and Intervention Orders are not included – is this because MHO's are not included? This does not make sense. These powers should be included. This type of function is definitely a "partnership" function – often it concerns moving an adult in or out of hospital. Case conferences are multi-agency and health is involved. In whose name is the application going to be made – the Local Authority or the IJB? The delegation of AWI functions are inconsistent in terms of age applicability (>18 years in these Regulations as opposed to >16 years in the AWI Act).

4. More clarification is needed on the role of the Chief Social Work Officer.

5. **Adult Support & Protection**
   Section 38 (duty to apply for a warrant for entry) should be included otherwise it is not consistent with the other duties delegated.

6. **The National Assistance Act 1948**
   The duties to set standard rates for care home fees are to be delegated but these are currently negotiated by COSLA and the care homes and then fixed by COSLA. How will this work if it is now delegated to the IJB? The power to make grants to voluntary organisations whose sole objective is to promote social welfare is included – this could include debt advice and welfare benefits organisations like the Citizens Advice

Bureau which are supervised from other parts of the Council, linked to Community Planning functions and it is considered that there are risks to disaggregating this away from complementary functions within the Local Authority.

7. **Gardening assistance**
   Why is this included? It is not a high priority and does not currently sit within SW.

8. **Housing**
   Registered Social Landlords – why are these functions included?

9. **Housing support**
   Is this included or not? There is no clear statutory reference for housing support. We were previously advised by the Scottish Government that only the equipment and adaptations element of housing support would be delegated. There are many aspects of housing support that most appropriately remain with the Housing service.

10. **Housing applications**
    Currently Housing take the applications e.g. for sheltered housing, then SW carry out the assessments and collect the contributions – how will this work if it is delegated?

11. **Housing (Scotland) Act 2001 s.92**
    This is too wide: it would include adults without any social care or health needs. We are not sure that this adds value to the partnership.

12. **Housing (Scotland) Act 1987 s.5**
    Laundry and meal facilities are included but these sit with Housing.

13. **Domestic abuse**
    This is listed with Adult Protection in the Consultation list of services which are intended to be delegated, but there is no reference to any statutory provisions relating to it. Clarity is required in respect of what is intended to be delegated to the IJB.

14. **Health improvement services**
    This is listed but it is not clear what these are or what would be transferred. There are risks of disaggregating this away from complementary functions within the Local Authority.

15. **Carers support services**
    These are often carried out by the 3rd sector – would that continue?

16. Clarity is required for whether there is a legal right for the IJB to commission the 3rd sector.

17. **Occupational therapy**
    This is listed as included – where are the provisions relating to it?

18. Clarity for what people will require to pay for is needed. They need to know if what is free just now and what they need to pay for will stay the same or change.

19. The draft Regulations tells us what services the Scottish Government intends to be delegated (Annex 2(A)), but this is not fully reflected in the table in the Schedule of enactments conferring functions (Annex 2(B)).

Housing Functions – General Comments

The Council endorses the separate response made by the Grampian Housing Services. The Regulations as drafted include a number of housing related functions; we feel that the scope of these need to be further refined to cover specific paragraphs rather than whole sections of legislation which may not be relevant.

Wholeheartedly consider that homelessness should remain within Local Authority and those services delegated to RSL Housing.

There needs to be clear definition of Housing Support to ensure that services related to tenancy sustainment are excluded from the scope of the regulations. We recognise the need for close cooperative working between Social Housing providers and the Health and Social Care Partnerships across the Grampian Health Board area. There is a collective view that the development of robust strategic frameworks between all partners including housing providers would help to achieve the nine outcomes most effectively and efficiently.

We want to highlight the significant role that Housing has to play in achieving the majority of outcomes. Although the Cabinet Secretary for Health has acknowledged the importance of Housing in the context of Health and Social Care integration, this appears to have been seriously under estimated in both the drafting of the regulations and in terms of the future role of Housing.

It is the view of social housing providers operating in the Grampian Health Board area that there are good working practices in the North East at a strategic and operational level which will provide a platform for the new partnerships and in the achievement of improved outcomes.

We are in agreement that Aids and Adaptations should be part of the delegated functions by Local Authorities to the partnership and we accept that such provision should be tenure neutral.

Before guidance is issued there requires to be further detailed discussion regarding those Housing Support functions to be included within the scope of the regulations.

Further Comments
Please also see further comments in Appendix 2 at page 51 below which is a response to the Local Authority functions by SOLAR and which is endorsed by the Council.

PROPOSALS FOR REGULATIONS PRESCRIBING FUNCTIONS THAT MAY OR THAT MUST BE DELEGATED BY A HEALTH BOARD UNDER THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

CONSULTATION QUESTIONS

1. Do you agree with the list of functions (Schedule 1) that may be delegated?

Yes [X]

No [ ]

If no, please explain why:

Yes, subject to the comments in box 4 below.

2. Do you agree with the list of services (Schedule 2) that must be delegated as set out in regulations?

Yes [X]

No [ ]

If no (i.e. you do not think they include or exclude the right services for Integration Authorities), please explain why:

Yes, subject to the comments in box 4 below.

3. Are you clear what is meant by the services listed in Schedule 2 (as described in Annex A)?

Yes	
No	X

If not, we would welcome your feedback below to ensure we can provide the best description possible of these services, where they may not be applied consistently in practice.

Please see the comments in box 4 below.

4. Are there any further comments you would like to offer on these draft regulations?

The following is the response made by Officers of the Council, and is subject to any comments that Elected Members may make:

It is the Council's view that if the Health and Social Care Partnership is to be as effective as it can be and establish stronger joint working arrangements and a different culture, it is necessary to ensure that the Regulations enable that to go forward in a way that promotes a sense of the Partnership being established on an equal footing.

The way in which the draft Regulations are framed causes the Council some concern. The proposals for Regulations for prescribed functions that must be delegated by the Local Authority in Annex 2(B) are drafted differently than the proposals for Regulations prescribing functions that may or must be delegated by a Health Board in Annex 3(A). The delegated functions of the Local Authority are drafted with considerable prescription whereas the delegated functions of the Health Board are, in some respects, drafted in quite a different way. This gives an inconsistent approach and a lack of clarity. There is a need for the two sets of delegated functions to be framed more closely and properly aligned.

There is a risk that the different approach to the relevant Regulations described above, and the lack of clarity, could create an imbalance in the extent of the strategic

planning responsibilities and the delivery of functions that must be delegated by the Health Board compared with those that must be delegated by the Local Authority. The table of Health Services that must be included within integration on pages 47-50 of the draft Regulations states that these "must be included within the scope of *integrated strategic planning*". This does not appear to require the Health Board to delegate delivery of any or all of these functions to the Partnership. However, the Schedule of delegated functions for the Local Authority on pages 32-39 provides clearly that all aspects of delivery of these services and functions must be delegated. This lack of parity in terms of prescribed delegation seems unreasonable and is undesirable.

The following are further comments by Officers of the Council:

1. **Unplanned Inpatients**
   The Partnership is concerned that the reference to all unplanned admissions is too wide. The definition here should be restricted to unplanned admissions of patients with certain chronic diseases.

   There is a need for clarity regarding the potential mix of acute services and community hospital provision.

   There is a need to ensure within the Regulations that there will be cooperation between geographical areas with regard to services such as A & E. There should be a duty to appropriately split the resource between Partnerships where a cross-border issue arises. Lastly, there is a need to know where the Scottish Ambulance Service and other transport services fit in. Are they part of integration or not?

2. **Out Patients – Accident and Emergency**
   What are the provisions going to be to separate out adult and children services in units that provide services to both? There is a need for clarity on budget, operational issues and other back office arrangements. There is a need for clarity regarding acute hospital services.

3. **Care of Older People**
   Clarity is required on the definition of “older people”. Using a chronological age is often not helpful. Consideration should be given to an alternative definition so that the care that should be within the Partnership is within the Partnership, even where (eg) a younger person may be suffering from a condition normally affecting older people.

4. **District Nursing**
   No comments.

5. **Health Visiting**
   There are issues around including health visiting in the Partnership. Health Visitors provide services to families, but the primary focus is services to children. Accordingly we question whether health visiting appropriately belongs in these Regulations. The logic of requiring the transfer of the Health Visiting Service into the Partnership is not clear. Issues arise with the division of adult and children’s services. There is a risk that while we integrate some Services

we lose integration between other Services, for example between adult services and children's services that are provided within the same unit or team currently.

6. **Clinical Psychology**
The Partnership is of the view that we should not include all Clinical Psychologists here**.** Only Clinical Psychologists in community teams should be included. We should not include Psychologists in specialist teams, such as a Burns Unit or within Neurosurgery. Again, there is an issue of the division of Adult and Children's Psychological Services.

7. **Community Mental Health Teams**
No comment.

8. **Community Learning Difficulties Team**
Again the question arises, how does this impact on Children's Services?

9. **Addiction Services**
We need clarity as to where the Alcohol and Drugs Partnership fits into integration. Again, there is the issue of Children's Services.

10. **Women's Health Services**
There is a need to revisit the title of this Service. Given the current title questions would arise regarding Men's Health Services. Again there may be a link to Children's Services and what integration would mean for them.

11. **Allied Health Profession Services**
We feel this title is too general. Some Allied Health Professions work exclusively in acute hospitals and it would not make sense to include them in the Partnership. There is a need for a definition here. We assume that AHP includes OT, physio, speech and language therapy, dietetics and podiatry. Does it include anything else? It would not make sense to include others such as radiographers.

12. **GP Out of Hours**
Again the issue of disaggregating a service that covers adults and children may arise. Is this what is intended?

13. **Public Health Dental Services**
Again the issue of adult and children's services arises.

14. **Continence Services**
Again the issue of adult and children's services arises.

15. **Home Dialysis**
The Partnership questions whether it is necessary to make the transfer of this service mandatory. These services are run by the main hospitals.

16. **Health Promotion**
There is a need for clarity as to what this means and what staff are included. Does it include topic teams currently run centrally for Health Board areas (e.g.

smoking cessation)? There are many different structures in health promotion dependent on the size of the Health Board and it is preferred that health promotion staff may be included rather than must be included. It may also not be appropriate to include health promotion staff whose remit covers children. It may be more helpful to include the function rather than the specific staff. This would allow the Regulations to be kept more generic and would allow local flexibility.

17. **General Medical Services**
No comment.

18. **Pharmaceutical Services**
The Regulations refer to all medication and therapeutic agents. Is this what is intended? What is the relationship with private pharmacies and with acute sector pharmacists? Again there is the issue of adult and children's services.

19. The References to Disabled Persons, Mental Health and Public Health all raised the issue of universal services applying to both adults and children.

20. **Education (Additional Support)**
It is not clear why this is included in the Regulations. The services are primarily applied to children rather than adults.

PROPOSALS FOR NATIONAL HEALTH AND WELLBEING OUTCOMES RELATING TO THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

CONSULTATION QUESTIONS

1. Do you agree with the prescribed National Health and Wellbeing Outcomes?

Yes ☐

No ☐

If no, please explain why:

2. Do you agree that they cover the right areas?

Yes ☐

No ☐

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

4. 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?

Yes	X
No	

5. If not , why not?

Yes, subject to comments in box 6 below.

6. Are there any further comments you would like to offer on these draft Regulations?

PROPOSALS FOR INTERPRETATION OF WHAT IS MEANT BY THE TERMS HEALTH AND SOCIAL CARE PROFESSIONALS RELATING TO THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

CONSULTATION QUESTIONS

1. Do you agree that the groups listed in section 2 of the draft regulations prescribe what 'health professional' means for the purposes of the Act?

Yes ☐

No ☐

2. If you answered 'no', please explain why:

3. 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, for the purposes of the Act?

Yes ☐

No ☐

4. If you answered 'no', what other methods of identifying professional would you see as appropriate?

5. Are there any further comments you would like to offer on these draft Regulations?

No comments.

PRESCRIBED FUNCTIONS CONFERRED ON A LOCAL AUTHORITY OFFICER RELATING TO THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

CONSULTATION QUESTIONS

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

Yes [X]

No [ ]

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

3. Are there any further comments you would like to offer on these draft Regulations?

No comments.

APPENDIX 1 to The Aberdeenshire' Council's response to the Consultation on the Draft Regulations relating to the Public Bodies (Joint Working) (Scotland) Act 2014 - Set 1

Model Integration Scheme

1. Introduction

The Public Bodies (Joint Working)(Scotland) Act 2014 (the Act) requires Health Boards and Local Authorities to integrate planning for, and delivery of, certain adult health and social care services. They can also choose to integrate planning and delivery of other services – additional adult health and social care services beyond the minimum prescribed by Ministers, and children's health and social care services. The Act requires them to prepare jointly an integration scheme setting out how this joint working is to be achieved. There is a choice of ways in which they may do this: the Health Board and Local Authority can either delegate between each other (under s1(4(b), (c) and (d) of the Act), or can both delegate to a third body called the Integration Joint Board (under s1(4)(a) of the Act). Delegation between the Health Board and Local Authority is commonly referred to as a "lead agency" arrangement. Delegation to an Integration Joint Board is commonly referred to as a "body corporate" arrangement.

This document sets out a model integration scheme to be followed where the "body corporate" arrangement is used (ie the model set out in s1(4)(a) of the Act) and sets out the detail as to how the Health Board and Local Authority will integrate services. Section 7 of the Act requires the Health Board and Local Authority to submit jointly an integration scheme for approval by Scottish Ministers. The integration scheme should**1** follow the format of the model and must include the matters prescribed in Regulations. The matters which must be included are set out in detail in the model.

1 Bearing in mind the large number of schemes which will be submitted and the variations which Ministers will be required to check, it would be very helpful if the scheme submitted followed the model. However, a scheme would not be rejected only because it didn't follow the model. A scheme may, however, be rejected if it doesn't cover all the matters which have been prescribed as necessary.

Once the scheme has been approved by the Scottish Ministers, the Integration Joint Board (which has distinct legal personality) will be established by Order of the Scottish Ministers.

As a separate legal entity the Integration Joint Board has full autonomy and capacity to act on its own behalf and can, accordingly, make decisions about the exercise of its functions and responsibilities as it sees fit. However, the legislation that underpins the Integration Joint Board requires that its voting members are appointed by the Health Board and the Local Authority, and is made up of councillors, NHS non-executive directors, and other Members of the Health Board where there are insufficient NHS non-executive directors. Whilst serving on the Integration Joint Board its members carry out their functions under the Act on behalf of the Integration Joint Board itself, and not as delegates of their respective Heath Board or Local Authority. This is in line with what happened under the previous joint working arrangements. Because the same individuals will sit on the Integration Joint Board and the Health Board or Local Authority, accurate record keeping and minute taking will be essential for transparency and accountability purposes.

The Integration Joint Board is responsible for the strategic planning of the functions delegated to it and for ensuring the delivery of its functions through the locally agreed operational arrangements set out within the integration scheme in Section 4. Further, the Act gives the Health Board and the Local Authority, acting jointly, the ability to require that the Integration Joint Board replaces their strategic plan in certain circumstances. In these ways, the Health Board and the Local Authority together have significant influence over the Integration Joint Board, and they are jointly accountable for its actions.

2. Aims and Outcomes of the Integration Scheme

The main purpose of integration is to improve the wellbeing of people who use health and social care services, particularly those whose needs are complex and involve

support from health and social care at the same time. The Integration Scheme is intended to achieve the National Health and Wellbeing Outcomes prescribed by the Scottish Ministers in Regulations under section 5(1) of the Act, namely:

1. People are able to look after and improve their own health and wellbeing and live in good health for longer.

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.

3. People who use health and social care services have positive experiences of those services, and have their dignity respected.

4. Health and social care services are centred on helping to maintain or improve the quality of life of service users.

5.Health and social care services contribute to reducing health inequalities.

6. People who provide unpaid care are supported to reduce the potential impact of their caring role on their own health and well-being.

7. People who use health and social care services are safe from harm.

8. People who 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.

9. Resources are used effectively in the provision of health and social care services, without waste.

- The Health Board and the Local Authority should set out more fully here the vision they are looking to achieve through integration and through the implementation of the principles of the Act**2**.

2 The vision is to achieve the Outcomes above but this gives space to focus on and describe that in more detail.

Model Integration Scheme

The parties:

[X] Council, established under the Local Government etc (Scotland) Act 1994 and having its principal offices at [ ] ("the Council");

And

[Y] Health Board, established under section 2(1) of the National Health Service (Scotland) Act 1978 (operating as " ") and having its principal offices at [ ] ("NHS (area) ") (together referred to as "the Parties")

1. Definitions And Interpretation

To include –

- All terms and expression which require defining; [to finalise this and other items in the preamble once draft complete]

[eg the Regulations; Scheme; Integration Joint Board; etc

"The Act" means the Public Bodies (Joint Working) (Scotland) Act 2014;
"The Parties" means the Council and the NHS (area);
"The Scheme" means this Integration Scheme;
"The Board" means the Integration Joint Board to be established by Order under section 9 of the Act;
"Membership Regulations" means [add name and SSI number of the relevant regulations]

In implementation of their obligations under the Act, the Parties hereby agree as follows:

1. Choice of Integration Model

In accordance with section 1(2) of the Act, the Parties have agreed that the integration model set out in sections 1(4)(a) of the Act will be put in place for [name of integration authority], namely the delegation of functions by the Parties to a body corporate that is to be established by Order under section 9 of the Act.

2. Local Governance Arrangements

[Having regard to the requirements contained in the [*Regulations*], the Parties require to supply the detail of the remit and constitution of the Integration Joint Board which includes, but is not limited to, the following:

- The remit of the Integration Joint Board is to prepare and implement a Strategic Plan in relation to the provision of health and social care services to adults [and children] in their area in accordance with sections xx to yy of the Act.

- The arrangements for appointing the voting membership of the Integration Joint Board are[3] …[*Set out the number of representatives to be appointed by each Party*, *the standard length of their period of office, the circumstances in which a person will cease to be a voting member before the end of the standard length of their period of office, etc.]*

- The arrangements for appointing the chair and vice chair of the Integration Joint Board are …[*Set out how the Parties will determine who is chair and vice chair, the standard length of their period of office, the circumstances in which a person will cease to be chair or vice chair before the end of the standard length of their period of office, etc.*]

- The arrangements for committees of the Health Board and the Local Authority and for the Community Planning Partnership to interact[4] with the Integration

3 The Integration Joint Board will be required by Regulations to co-opt non-voting members to the Board.

4 The three bodies will have to communicate with each other and interact in order to contribute to the Outcomes, however the Integration Joint Board does have distinct legal personality and the consequent autonomy to manage itself. There is no role for Health Boards or Local Authorities to independently sanction or veto decisions of the Integration Joint Board.

Joint Board are …[*Set out how the committees of the Health Board and Local Authority, such as the social work committee, will interact with the Integration Joint Board.*]**5**

3. Delegation of Functions

The functions that are to be delegated by the Health Board to the Integration Joint Board are set out in Part 1 of Annex 1. The services to which these functions relate, which are currently provided by the Health Board and which are to be integrated, are set out in Part 2 of Annex 1.

The functions that are to be delegated by the Local Authority to the Integration Joint Board are set out in Part 1 of Annex 2. The services to which these functions relate, which are currently provided by the Local Authority and which are to be integrated, are set out in Part 2 of Annex 2.**6**

4. Local Operational Delivery Arrangements

The local operational arrangements agreed by the Parties are:**78**

[Set out

- *[the responsibilities of the membership of the Integration Joint Board in relation to monitoring and reporting on the delivery of integrated services on behalf of the Health Board and Local Authority]*

5 A degree of flexibility should be allowed so that non-material changes to practice can be made within the terms of the Scheme, thereby avoiding the need to revert to Ministers for approval.

6 In exercising its functions, the Integration Joint Board must take into account the Parties' requirement to meet their respective statutory obligations. Apart from those functions delegated by virtue of this Agreement, the Parties retain their distinct statutory responsibilities and therefore also retain their formal decision-making roles.

7 The Integration Joint Board is responsible for the planning of integrated services and achieves this through the Strategic Plan. It directs the Health Board and Local Authority to deliver services in accordance with the Strategic Plan. Health Boards and Local Authorities will wish to put in place arrangements for the Integration Joint Board to monitor and report on the delivery of integrated services on their behalf.

8 See also section 6 (Workforce) on the Chief Officer

- *[the process to consider the Strategic Plan within their own Health Board area as well as any potential impact on the Strategic Plans of other integration authorities.]*

- *[include how the Committee/governance structures in the Local Authority and NHS interact/link with the Integration Joint Board?]*

- *the local outcomes, performance targets, improvement measures and reporting arrangements that the Integration Joint Board is to take account of for integrated services and non integrated services in planning and monitoring delivery of integrated services.**9***

5. Clinical and Care Governance

The arrangements for clinical and care governance agreed by the Parties are:

[Set out the joint arrangements for clinical and care governance including:

- *How professional advice in respect of clinical and care governance is provided within all aspects of the [Partnership's/Integration Joint Board's [or the whole collaborative landscape?] governance and management structures.*

- *The arrangements for the provision of professional health care and social work advice to the Integration Joint Board, the strategic planning group and localities. **10***
- *How those arrangements interrelate with the remaining arrangements for providing professional clinical governance and advice within the Health Board (including the respective responsibilities of the Health Board's medical director and nurse director) and the care governance arrangements that remain with the Local Authority.]*
- *Information about the role of senior professional staff in the NHS and Local Authority in relation to these arrangements.*

9 For example, the Health Board is currently responsible for meeting a HEAT target in relation to delayed discharge. A large proportion of the functions and resources to deliver that target are delegated to the Integration Joint Board. It is therefore appropriate that the Integration Joint Board is required to take account of this target when exercising its functions.

10 For example, this may be done through the establishment of an advisory committee comprised of health and social care professionals, having health and social care professionals as non-voting members of the Integration Joint Board, etc.];

- *Information about how these arrangements relate to the arrangements for the involvement of professional advisers to the Integration Joint Board.*

6. Chief Officer

The arrangements in relation to the Chief Officer agreed by the Parties are:**11**

[Set out the jointly agreed arrangements including:

- *the relationship between the Chief Officer and the senior management team of the Health Board and Local Authority/ Information on the structures and procedures which will be used to enable the Chief Officer to work with senior management of the Parties to carry out functions in accordance with the Strategic Plan.;*

- *line management of the Chief Officer to ensure accountability to both Parties.*

7. Workforce

The arrangements in relation to their respective workforces agreed by the Parties are:

[Set out the jointly agreed arrangements including:

- *the process for appointment to jointly appointed positions, arrangements for supervision and management of people who are jointly appointed;*
- *the arrangements for the supervision and management of staff who report to a person employed by another organisation. (For example, where an integrated team comprises both Health Board and Local Authority staff managed by a*

11 The appointment of the Chief Officer, and the process for appointing the Chief Officer, is the responsibility of the Integration Joint Board.

Local Authority manager, the chief executive of the Health Board may direct his/her staff to follow instructions from the Local Authority manager);

- *the process which the parties will follow to develop a joint Workforce Development and Support Plan and an Organisational Development strategy in relation to teams delivering integrated services.*

[Where the Health Boards and Local Authority agree to transfer staff as part of this integration scheme they must agree and set out:

- the number and category to be transferred]

7. Finance

[Extensive Finance Guidance is available at [add link]]

The Parties must agree and set out the method of determining **12**–

(a) amounts to be paid by the Health Board and the Local Authority to the Integration Joint Board in respect of each of the functions delegated by them to the Integration Joint Board (other than those to which sub-paragraph (b) applies); and

(b) amounts to be made available by the Health Board to the Integration Joint Board in respect of each of the functions delegated by the Health Board which are (i) carried out in a hospital in the area of the Health Board and (ii) provided for the areas of two or more local authorities.

1. Payment in the first year to the Integration Joint Board for delegated functions

The payment should be based on the baseline established from review of recent past performance**13** and existing plans for the Health Board and the Local Authority

12 The amounts described in (a) and (b) here are not subject to Ministerial approval but are subject to the approval of the Integration Joint Board.

13 Please see Finance Guidance

for the functions which are to be delegated, adjusted for material items in the shadow period.

2. Payment in subsequent years to the Integration Joint Board for delegated functions

In subsequent years the amount should be adjusted for:

- Activity Changes
- Cost inflation
- Efficiencies
- Performance against outcomes
- Legal requirements
- Transfers to/from the notional budget for hospital services
- Adjustments to address equity of resource allocation
- The Local Government Financial Settlement

3. Method for determining the amount set aside for hospital services

[To follow-under development by The Integrated Resources Advisory Group (IRAG) [insert link]]

In-year variations

In the following circumstances the Health Board and/or Local Authority may reduce the payment in-year by the Integration Joint Board to meet exceptional unplanned costs within the constituent authorities ……..conditions to be listed.]

- Financial management arrangements
- Process for addressing budget variances

The Chief Officer will deliver the outcomes within the total delegated resources and where there is a forecast overspend against an element of the operational budget, the Chief Officer, the Chief Finance Officer of the Integration Joint Board and the relevant finance officer of the constituent authority must agree a recovery plan to balance the overspending budget. The Health Board and local authority must agree and include in the

Integration scheme how they will manage an overspend in the remote circumstance that the recovery plan is unsuccessful.

Where there is a forecast underspend in an element of the operational budget this will be retained by the Integration Joint Board, except when the following conditions apply …….(eg material errors in the assumptions made in method to determine the payment for the function). In these circumstances the payment for this element should be recalculated using the revised assumptions.

[To Follow: Process for the management of the variances for the amount set aside in hospital budgets is under development by IRAG]

- Process for re-determining in-year allocations and conditions when they may be used

- Arrangements for asset management and capital

Financial management and financial reporting arrangements

The Integration Joint Board will receive financial management support from…….. who will provide:

- Financial systems for hosting the accounting records of the Integration Joint Board
- Financial services to the Chief Officer/financial officer/Integration Joint Board to carry out their functions, ie the staff/other resources to be made available to support the preparation of the annual accounts, financial statement, financial elements of strategic plan, reports to the Chief Officer on the financial resources used for operational delivery, reporting to the board
- Monthly financial monitoring reports to the Chief Officer and the board on the performance of the budget within x days of the month end– minimum scope to be specified in a schedule
- Schedule of cash payments to be made in settlement of the payment due to the Integration Joint Board (if applicable)

8. Participation and Engagement

Detail the persons, groups of persons and representatives of persons consulted in the development of the integration scheme and the means by which consultation took place.

The Parties agree the following arrangements in respect of Participation and Engagement including:

- *[Set out the process by which arrangements in respect of Participation and Engagement shall be agreed including:Development and review/evaluation of involvement structures*
- *Arrangements for involving seldom heard groups*
- *Arrangements for communication with the public*
- *Reporting on outcomes (and progress in integration) to the public*
- *Training and on-going support for user/public members of the Board*
- *How feedback from users/public feeds into governance arrangements*
- *Information for how people can get involved]*

9. Information Sharing and Confidentiality

- The Parties agree to be bound by the Information Sharing Protocol set out in Annex**14** [ ].

10. Complaints

The Parties agree that there shall be one single point of contact for complaints by service users [in respect of a delegated function?] and agree the following arrangements in respect of this:

14 Information sharing processes need to be clearly understood and communicated. Operationally focussed agreements that support the safe and secure handling of information across organisations are crucial. The agreement must articulate the circumstances in which information will be shared and the processes for doing so. Various versions are in use across the public sector. Ministers do not endorse one particular version. The key is that it should be clearly set out and published.

- *[Set out: Details of complaint handling for the services provided by the Integration Joint Board*
- *Details of complaint handling for staff working within the Integration Joint Board to include responses to SPSO]*

11. Claims Handling, Liability & Indemnity

The Parties agree the following arrangements in respect of claims, Liability and Indemnity:

The Parties must consider how they wish to make arrangements which alter, as between themselves, the normal common law or statutory position in relation to claims against their organisation. If they do, they should set out those arrangements.

[*Set* out agreed arrangements, for example,

- provision to the effect that each of the Parties will indemnify the other in respect of claims made by its own employees
- provision to the effect that each of the Parties will indemnify the other in respect of claims by third parties arising from acts or omission of its own employees
- Procedures for discussing and resolving issues of disputed liability between the Parties
- Assurance arrangements including any self-assurance arrangements

12. Risk Management

The Parties and the Integration Joint Board are to develop a shared risk management strategy that sets out –

- The key risks with the establishment and implementation of the Integration Joint Board
- An agreed risk monitoring framework
- Any risks that should be reported on from the date of delegation of functions and resources
- The frequency that risks should be reported on

- The method for agreeing changes to the above requirements with the Integration Joint Board.

This should identify, assess and prioritise risks related to the delivery of services under integration functions, particularly any which are likely to affect the Integration Joint Board's delivery of the Strategic Plan. Identify and describe processes for mitigating those risks. The model includes an agreed reporting standard that will enable other significant risks identified by the partners to be compared across the organisation.

[The Integration Joint Board is to be placed under a duty to

- Establish risk monitoring and reporting as set out in the framework as developed by the Health Board and the Local Authority
- To maintain the risk information and share with, in a body corporate the Health Board and the Local Authority to the timescales specified or in a lead agency model the Integration Joint Monitoring Committee to the timescales specified.]

13. Dispute resolution mechanism

The Parties hereby agree that where they fail to agree on any issue related to this Scheme, then they will follow the process as set out below:**15**

(a) A representative of the Health Board and the Local Authority, and the Chief Officer, will meet to resolve the issue;

(b) The Health Board and the Local Authority will each prepare a written note of their position on the issue and provide it to the other Party and to the Chief Officer of the Integration Joint Board;

(c) in the event that the issue remains unresolved, the Chief Executive of the Health Board and the Local Authority, and the Chief Officer, will meet to resolve the issue;

(d) in the event that the issue remains unresolved, the Chair of the Health Board and nominated representatives of the Council will meet to resolve the issue;

(e) in the event that the issue remains unresolved, the Health Board and the Local Authority will proceed to mediation with a view to resolving the issue.

The process for appointing the mediator in (e) should be set out.

15 This relates to disputes between the Health Board and Local Authority in respect of the Integration Joint Board and not to internal disputes within the Integration Joint Board itself. The Parties must agree and set out set out a dispute resolution mechanism outlining the process which they will follow where they are unable to reach agreement on matters relating to the implementation of the integration scheme and the delivery of integrated health and social care services.

Where the issue remains unresolved after following the processes outlined in (a)-(e) above, the Parties agree the following process to notify Scottish Ministers that agreement cannot be reached: [ ].

APPENDIX 2 to The Aberdeenshire' Council's response to the Consultation on the Draft Regulations relating to the Public Bodies (Joint Working) (Scotland) Act 2014 - Set 1

ANALYSIS OF PROPOSED LOCAL AUTHORITY FUNCTIONS TO BE INCLUDED

SOLAR RESPONSE

STATUTORY	DESCRIPTION	ISSUES AND COMMENTS

PROVISION		
National Assistance Act 1948 **Section 22** **Section 26** **Section 45** **Section 48**	Section 22 contains the duties to fix standard rates for residential/nursing care and to charge those rates to clients. It is the statutory basis for the CRAG Guidance and therefore elements of the Charging Policy. Section 26 regulates the charging process and contains the provisions about net/gross payments to care homes and recovery of client contributions. Section 45 gives the Council power to recover money if the client has lied or misrepresented their financial situation. Section 48 places a duty on the Council to protect the moveable property of hospital patients in some circumstances.	Generally this seems comprehensive. However, the vast majority of the rules in relation to charging for residential/nursing care are found in the National Assistance (Assessment of Resources) Regulations 1992. This highlights a general issue about whether the functions of a local authority which are either found in Regulations or guided/supplemented by Regulations also need to be delegated (either specifically or generally).
Disabled Persons (Employment) Act 1958	This contains a power to provide sheltered employment opportunities for people with severe disability.	No issues
Social Work (Scotland) Act 1968 **Section 1** **Section 4** **Section 8** **Section 10** **(these first 4 only in so far as they relate to a delegated function)** **Section 12** **Section 12A** **Section12AZA** **Section12AA** **Section 12AB** **Section 13** **Section 13ZA** **Section 13A** **Section 13B** **Section 14** **Section 28** **Section 29**	Section 1 sets out that local authorities are responsible for the administration of the Act. Section 4 allows Councils to enter into agreements with other bodies to perform their functions under the Act. Section 8 gives the power to carry out research. Section 10 gives power to make grant or loan payments and other support to voluntary organisations. Section 12- duty to promote social welfare by making advice, guidance and assistance available. Sections 12A, AZA, AA and AB, 13ZA, 13A and 13B - the sections contain the duties to assess community care needs and make decisions about	Do parts of section 5 not also need to be included (in so far as Guidance relates to a delegated function)? Presumably if there is statutory guidance relating to a function which is to be delegated, then the duty to comply with associated guidance should also be delegated? What about Section 5A complaints procedure (in so far as the complaint relates to a delegated function)? Some complaints might rightly still be dealt with by LA as the operational provider of services but what about e.g. complaints about allocation of budget or availability of services, which might actually relate more to decisions of integration body? What about complaints about charging policy as that seems to arguably be delegated? This highlights a general issue about

Section 59 **Section 86** **Section 87**	whether to provide services to meet needs (including care with nursing) and the powers and duties of the Council in relation to carer assessments. Section 13 – power to assist clients with disposing of their work where we provide facilities for them to be engaged under section 12 (e.g sales of work at day centres or other supported employment type scenarios which are provided by the Council) Section 14 – power to provide home care and laundry facilities. Section 28/29 - duty to arrange burial/cremation of those who were in care homes funded by the local authority and power to pay expenses for relatives to attend funerals Section 29 – power to pay expenses of relatives to enable them to visit clients receiving Council assistance Section 59 – power to provide residential establishments (either directly or through arrangements with others) Section 86 – recovery of expenses for clients ordinarily resident in other areas Section 87 – power to make and recover charges for services provided by the Council	the handling of complaints and need to be clear about the processes to be followed.
Local Government and Planning (Scotland) Act 1982 Section 24	Power to arrange gardening assistance for the disabled and elderly	No issues other than to highlight that in some Councils this function This was a former District Council function and so may currently sit within Housing.
Health and Social Security and Social Services Adjudications Act 1983	Power to recover care home fees where there has been deprivation of capital; power to place a Charging Order on a client's property where there is a debt for care home fees	No issues

Sections 21-23		
Disabled Persons (Services, Consultation and Representation) Act 1986 **Sections 2, 3, 7 and 8**	These sections enhance the local authority's general duties in relation to assessing need and providing services, in the case of disabled persons. Sections 2 and 3 provide for the sharing of information and involvement of an authorised representative when the client is a "disabled person". Sections 7 and 8 deal with the assessment of need of disabled persons leaving hospital and the need to have regard to the ability of carers to provide care when assessing needs.	No issues
Housing (Scotland) Act 1987 **Section 5**	Power to provide laundry and meal facilities when providing housing accommodation.	We are not clear about what the justification is for including this but not other services under the 1987 Act – for example there is a power to provide welfare services under section 5A.
Adults with Incapacity (Scotland) Act 2000 **Section 10** **Section 12** **Sections 37, 39 and 41-45**	Section 10 – contains a number of powers and duties. • Duty to supervise welfare guardians • Duty to investigate where adult's personal welfare at risk • Duty to receive and investigate complaints about welfare attorneys and welfare guardians/intervenors • Duty to give advice to welfare attorneys/guardians • Duty to consult with MWC and Office of Public Guardian on matters of common interest Section 12 contains further provisions about investigations and authorises the local authority to take steps to safeguard the adult's personal welfare. This includes making an application to court.	It is unclear why is section 12 delegated but not the power to make applications for guardianship or intervention orders. Although "any person" can apply for an Order, the Act contains duties to apply which specifically relate to the local authority. We note that sections 3(3) or section 20 are not delegated which allow the local authority to make an application for court orders as well. Is it because they refer to "any person" applying so the IJB is already covered? It would be useful to have the intention clarified here. Elements of section 73 relating to recall of guardianship also refer to the local authority and so should perhaps also be delegated. What is the intention with Authority to Intromit/Access to Funds (sections 24A onwards)? Again, is that not mentioned because it

	Sections 37, 39 and 41-45 contain the provisions which allow a residential establishment to manage a resident's funds.	doesn't need to be as the IJB can exercise that power? If some of the options open to the LA are delegated but not all, does that not make governance and decision making more difficult in terms of accountability? We also consider that the comments noted highlight general issues in relation to the legal nature of the relationship between the IJB and the local authority. For example, will applications to court for guardianship be in the name of the local authority, the IJB or the local authority on behalf of the IJB?
Housing (Scotland) Act 2001 **Section 92**	Power to provide assistance for "housing purposes". This section contains a number of linked powers • Power to promote formation and development of registered social landlords • Power to provide assistance to a RSL for various purposes. These include improving, adapting, repairing and managing housing but also alleviating homelessness	Inclusion of section 92 as whole appears to be too wide and encompasses functions which have little to do with social care or those who may have social care needs.
Community Care and Health (Scotland) Act 2002 **Section 4** **Section 5** **Section 6** **Section 14**	Sections 4, 5 and 6 contain provisions relating to charging for care home places. They provide the statutory framework which underpins the rules relating to top up payments and deferred payments. Section 5 gives the LA power to arrange care home places in the rest of the UK. Section 14 is technical section which allows the LA to make payments to the NHS for certain services. This provision was in place to facilitate earlier attempts at promoting joint working.	We were not clear about why isn't section 1 included, when section 87 of the 1968 Act is? Section 1 seems to be intrinsically linked to both the provisions of the 1968 Act relating to assessment/service provision and charging, so should probably be included to ensure a comprehensive delegation of the functions.
Mental Health (Care and Treatment) (Scotland) Act 2003	Section 17 obliges the LA to provide facilities to the MWC to enable them to carry out their functions. There is a	No issues

	similar obligation on the NHS.
Section 17 **Section 25** **Section 26** **Section 27** **Section 33** **Section 34** **Section 228** **Section 259**	Section 25 contains the duty to provide care and support services for people with a mental disorder who are not in hospital. There is also a power to provide such services to those who are in hospital. "Care and support" can include residential accommodation and personal care, but would include other forms of care and support as well such as day care. Section 26 contains a separate duty to provide services to people with a mental disorder who are not in hospital. It provides that the LA must provide services designed to promote wellbeing and social development. This must include services which provide social, recreational and cultural activities, training and assistance in obtaining and undertaking employment. There is also a power to provide such services to those in hospital. Section 27 contains a duty to provide assistance with travel for those it is providing services to under sections 25 or 26. There is a power to provide this in the case of persons in hospital. Section 33 sets out the LA duty to make inquiries in relation to those with mental disorder in certain circumstances (e.g. the person is uncared for, or suffering from some deficiency in care or treatment). Section 34 gives the LA the power to request assistance from other bodies when carrying out inquiries. Section 228 sets out the duty to assess the needs of those with mental disorder on the request of certain people (e.g. MHO, primary carer Section 259 contains the duty to make advocacy services available.

Housing (Scotland) Act 2006 **Section 71**	Section 71 gives a LA powers to provide assistance for "housing purposes". This is a very widely drafted section. It includes power to provide assistance with the acquisition or sale of a house. It also gives a power to provide assistance with work on any land or premises for certain purposes. These purposes are listed and again are wide. They include repair, maintenance and construction of a house but also adaptation of a house for a disabled person.	One of the purposes relates to adaptation but is it too wide to include the whole section? See earlier comment on section 92 of the 2001 Act.
Adult Support and Protection (Scotland) Act 2007 **Section 4** **Section 5** **Section 6** **Section 11** **Section 14** **Section 18** **Section 22** **Section 40** **Section 42** **Section 43**	Section 4 sets out the LA duty to make inquiries in relation to an adult at risk. Section 5 contains the duty on public bodes to co-operate with the LA and with each other where the LA is making inquiries. Section 6 contains the duty to consider advocacy for an adult when the decision is made by the LA that it needs to intervene. Sections 11, 14, 18 and 22 relate to the Council's powers to apply for assessment, removal and banning orders. Section 40 contains the power to apply to a JP for a removal order or warrant for entry in an emergency instead of a Sheriff. Sections 42 and 43 require the LA to establish an Adult Protection Committee and to appoint members.	Sections 7-10 are not delegated. These sections set out the powers of "Council officers" under the 2007 Act, and include matters such as access to records, access to premises, carrying out visits to the adult and medical examination. We note the intention to pass separate Regulations which will enable the role of "Council officer" under these sections to be fulfilled by a Health employee (provided they meet the qualification requirements which already exist, which are that the officer must be a social worker, social services worker, OT or nurse with 12 months experience in identifying, assessing and managing adults at risk). Sections 12 and 17 also refer to the Council, albeit in the abstract rather than placing a direct power or duty on the Council. This highlights a potential difficulty where references are made to "the Council" or "the local authority" in any of the legislation listed in the consultation. Should there be a reading in provision which states that where there is any reference to a local authority or Council, that includes a reference to an IJB? Section 38 permits the Council to apply for a warrant for entry in applications to court. This is

		presently not listed – should it be? It is linked to applications for orders so should it not also be delegated? Section 48 relates to consultation. Should the IJB be included in that list?
Social Care (Self Directed Support) (Scotland) Act 2013 **Section 3** **Section 5** **Section 6** **Section 7** **Section 9** **Section 11** **Section 12** **Section 13** **Section 16** **Section 19**	Section 3 – duty to consider carer assessments and decide whether the carer needs support, and power to then provide that support Sections 4 – 7, 9 and 11 set out the core legal duties in relation to self-directed support. In particular, these provisions contain the duty to offer choice and to comply with the client's wishes in relation to this, and the duty to provide information in relation to self-directed support. Sections 12 and 13 deal with changes in eligibility for direct payments and the duty to offer the options for support again in the event of changes in client circumstances Section 16 allows recovery of direct payments in the event of misuse. Section 19 contains a general duty to promote self-directed support and the choice options.	Should sections 1 and 2 be delegated too? Section 1 sets out the general principles the LA must comply with when carrying out their community care functions under the 1968 Act (all of which are delegated). Section 2 sets out the options and makes reference those options being provided by the LA, but of course the functions in relation to provision of services under the 1968 are to be delegated so is it correct that section 2 is left out? Does the reference to LA in section 2 not now need to be read as a reference to the IJB (see earlier comment in relation to "reading in")?
		Should section 2 of the Chronically Sick and Disabled Persons Act 1970 be included?