

**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:

It would strengthen the legislation for there to be an explicit requirement for partnerships to set out how they will jointly manage/deliver equalities duties.

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

The prescribed information is largely what was expected. However there should be some local flexibility within the Integration Scheme to include additional information or protocols relevant to local need.

(cont.)

There should also be flexibility in the level of detail that will be required to be presented within the integration scheme on issues such as workforce development. In Glasgow, c.9000 staff will be in scope for integration and the development of detailed workforce plans covering this volume of staff cannot be expected to be provided by the end of 2014 / early 2015.

It also needs to be noted that flexibility will be a pre-requisite in terms of how each integration scheme will look given that the legislation sets out the de minimis position relating to adult care and some local authorities, including Glasgow City, are going beyond the legislation in terms of what is in scope.

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## ANNEX 2(D)

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### 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 detailed comments in section 3 and appendix 1

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

The prescribed information is what was expected, however the regulations make no mention of the duties of partnerships in relation to the **Local Government in Scotland Act (2003)** re Community Planning despite a clear statement of the relationship between Health and Social Care Partnerships and Community Planning Partnerships. There is also no listing in the prescribed functions around the duties of partnerships in relation to the **Community Empowerment Bill**. It would be helpful to articulate this.

HSCPs must have a duty to support partners to promote well being. This requires the legislation to tease out the duties of the **Public health (Scotland) Act 2008** that will now reside with HSCPs.

With regards to functions to be delegated under the **National Assistance Act 1948**, it should be noted that 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).

(cont.)

Regarding functions to be delegated under **Social Work (Scotland) Act 1968** we would suggest that parts of section 5 also need to be included (in so far as the 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 the associated guidance should also be delegated.

More clarity is needed with regards to Section 5A of the **Social Work (Scotland) Act 1968** re complaints procedure, in so far as the complaint relates to a delegated function. Some complaints might rightly still be dealt with by the Local Authority as the operational provider of services but there may also be complaints about allocation of budget or availability of services, which might actually relate more to decisions of the integration authority.

Regarding the **Adults With Incapacity (Scotland) Act 2000**, It is unclear why section 12 is 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.

Elements of section 73 relating to recall of guardianship also refer to the local authority and so should also be delegated.

If some of the options open to the LA are delegated but not all, this will make governance and decision making more difficult in terms of accountability.

Clarity must also be provided on 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?

With regards to the inclusion of Section 5 of the **Housing (Scotland) Act 1987** - the 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.

Regarding the inclusion of the **Housing (Scotland) Act 2001** Section 92 and the **Housing (Scotland) Act 2006** Section 71, inclusion of these sections in their entirety is too wide and encompasses functions which have little to do with social care or those who may have social care needs. Please see **Appendix 1** for a detailed response to the proposed inclusion of these two sections from Glasgow City Council Development and Regeneration Services

We would suggest that section 2 of the **Chronically Sick and Disabled Persons Act 1970** be included in the regulations.

As a general point, where references are made to “the Council” or “the local authority” in any of the legislation listed within these regulations, there should 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.

**Appendix 1 - Response from Glasgow City Council Development and Regeneration Services on the proposals to prescribe the functions under the Housing (Scotland) Act 2001 (Section 92) and the Housing (Scotland) Act 2006 (Section 71) to the new integrated Health and Social Care bodies constituted under Public Bodies (Joint Working) (Scotland) Act 2014.**

Section 92 confers powers on local authorities to provide assistance in the form of grants, loans and transfer of land among other things with respect to the formation and development of Registered Social Landlords in the provision, improvement, adaptation repair, maintenance and management of housing.

The outcome of the proposals with respect to Sections 92 and 71 is that key functions enabling a local authority to deliver its responsibilities as a strategic housing authority will transfer to the integrated body including management of development funding and the Scheme of Assistance. Both are key strategic housing functions.

It is clear from the Policy Memorandum supporting the Bill (as introduced) that this mandatory transfer of local authority housing functions was not the Government's intention although the importance of the link between health, social care and housing is recognised. At page 19 the memorandum states: -

'It is to be left to statutory partners to agree locally whether to include other services, such as children's or housing services, in the integrated arrangements'.

The memorandum acknowledges that housing services, including those provided by Housing Associations, third sector and by local authorities, be fully included in service planning and provision of integrated health and social care services. The memorandum identifies that some housing functions may fall within the definition of 'social care' (page 32.). However the effect of these proposed regulations for local authorities is that most if not all housing functions will transfer from Council control.

If the Government has changed its stance then it has not fully consulted the sector or others on this major change explaining its reasons.

Integration of these functions may have adverse consequences for the overall integrated approach.

There are no national outcomes for housing identified in the regulations which, given the scale of housing functions transferring, would seem to be an oversight.

Nor is there a specific reference to housing representation with respect to governance models which would be essential if these proposals are confirmed in the Regulations laid before Parliament.

It is in fact unclear if it is the Government's intention to have such a large scale transfer of housing functions.

At a practical level, the technical and other housing expertise needed to deliver the functions under Sections 71 and 92 have to be retained within the local authority for effective engagement and delivery of these services to the general population, Housing Associations, Developers, private landlords and others. The complexity of the housing system in a city such as Glasgow requires this. This is because, uniquely in Scotland, Glasgow City Council has no stock in its ownership and manages Development Funding for Affordable housing built by Housing Associations. Our management of this funding provides new build housing for general and specialist needs. It is an essential element to regeneration of many areas within Glasgow.

Even where there is the clearest link between housing health and social care these proposals seem to be contradicting the Government's previous position.

The Government has accepted all the recommendations of the Adaptations Working Group. A key recommendation from that group is that strategic leadership for a fit for purpose housing adaptations service should unambiguously lie with the local housing authority because: -

- 'The housing sector's role is to create a housing stock which is 'fit-for-purpose'.
- This would encourage better connections with repairs, modernisation and new building programmes.
- Feedback from the consultation showed broad support for housing sector leadership.
- This would involve working with the new health and social care partnerships to develop a strategy, which is 'tenure neutral', with clear outcomes and priorities for housing adaptations, with an associated investment strategy. The recent development of a Housing Contribution Statement will form part of the joint strategic planning arrangements of local health and social care partnership'

The case for housing authorities continuing to manage adaptation budgets are supported through recognition that:

- Adaptations are often linked to repairs eg installing a shower or a bathroom that is affected by dry rot /requires inspection
- Getting value for money in terms of design / awareness of building regulations
- Being able to assess costs in terms of market rates/uplifts
- Providing alternative building proposals

The Joint Improvement Team has called for submissions from local authorities wishing to participate in Adapting for Change demonstration sites which will look at how adaptations are delivered across all tenures. The proposals are for a 2 year pilot to see how this works. We believe that no changes should even be considered until after this piece of work has been completed.

For the above reasons we believe the proposals to transfer Section 71 and Section 92 functions are simply not workable and impractical. The City Council fully supports the fact that there needs to be closer working between the Housing authority and the new integrated health/social care service. The Regulations relating to the functions under the Housing (Scotland) Act 2001 (Section 92) and the Housing (Scotland) Act 2006 (Section 71) should be dropped and it should remain an optional inclusion for those local authorities that may wish to include these functions in the same way that is for children and families services.

**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

No

If no, please explain why:

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

Yes  Glasgow City Council

No  Glasgow Community Health Partnership

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

*The Glasgow CHP believe that the regulations as currently worded are confusing in relation to unplanned and outpatient A&E services. This Health Board cover multiple local authority areas and we are of the view that unplanned emergency care should continue to be managed by the Board Wide Acute Division. However, it is essential that in planning for the needs of the local population the HSCP considers the totality of acute care services consumed by the people of Glasgow. The HSCP will need to do this jointly with the Health Boards corporate planning and acute divisional teams.*

Glasgow City Council agree with the list in Schedule 2.

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

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

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.

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

Glasgow City Council welcomes the inclusion of unplanned emergency care, which supports development of a whole-systems approach. We do however recognise the complexities which health board will find with this inclusion.

*Glasgow Community Health Partnership believes that it is unclear whether this relates only to including emergency care in strategic planning or including budgets and operational management. This should be linked to LUCAP process and incorporated in a new joint planning agreement between HSCP and acute.*

*Partnerships should be responsible for a whole system of care including both community and specialist/inpatient services. This would apply to adult mental health/OPMH/services for LD and addictions/sexual health and women's services.*

*Home dialysis should be removed as this is a specialist service run by renal services.*

(cont)



Both Glasgow City Council and Glasgow CHP agree that HSCPs must have a duty to support partners to promote well being. This requires the legislation to tease out the duties of the Public health (Scotland) Act 2008 that will now reside with HSCPs.

The prescribed information is what was expected, however the regulations make no mention of the duties of partnerships in relation to the Local Government in Scotland Act (2003) re Community Planning despite a clear statement of the relationship between Health and Social Care Partnerships and Community Planning Partnerships. There is also no listing in the prescribed functions around the duties of partnerships in relation to the Community Empowerment Bill. It would be helpful to articulate this.

**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:

Outcome 2 should end either after the words "...homely setting..." or be continued, to read "...homely setting in their community where that is possible". To leave this outcome as it is will place unachievable burdens on partnerships, for instance for individuals with complex disabilities for whom there may not and never will be a "homely setting" in their community. It raises the question of what "their community" actually means, and is too open to wide interpretation.

Outcome 7 is too broad as it is written and suggests that an older person, for instance, who attends a day centre three days a week will be "safe from harm" 24 hours a day, 7 days a week. This is misleading. The outcome should read "People who use health and social care services are protected from harm during their usage of those services".

We do not agree with the phrasing of outcome 9. We believe that the words "without waste" should be removed from this outcome, as this is too open to interpretation and without a clear definition of what is to be considered "waste" the measurement of this outcome may vary greatly across partnerships.

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

No

5. If not, why not?

Largely yes, subject to amendments noted previously, however Outcome 8 is arguably not a "National Health and Wellbeing Outcome." The effective engagement of the workforce is a means to an end and not a *raison d'être* for the passing of the Act. It should be seen as an "input" and "output" that contributes to the delivery of the national outcomes for health and wellbeing.

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

While we welcome the fact that the Government will provide further information on key indicators and measures in relation to these outcomes, these are required immediately to allow for effective integrated performance frameworks to be developed in line with these outcomes.

We are aware that key indicators and measures reported to different Scottish Government departments can vary and so would welcome co-ordination and standardisation of approach at this level.

*Glasgow CHP believe that it is important that performance targets/improvement measures and reporting relate to the outcomes and within this there needs to be clarity on the HEAT and other national targets that the IJB will be responsible for.*

Glasgow City Council does not disagree with the above statement, but believe that this is already explicit within the legislation and 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  Glasgow City Council

No  Glasgow Community Health Partnership

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

*Glasgow CHP believe that as the Regulations provide for Social Work students, this should also apply to trainees/students within Health Boards.*

*From a Health Board perspective, it would seem reasonable that health improvement should be seen as one of the professional groups.*

Glasgow City Council agrees with the approach adopted within the regulations to defining Health and Social Care Professionals.

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

**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**

**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?