NHS Lothian Response to Set 1

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:

NHS Lothian response:

Overall Comment

It is appreciated that the Public Bodies (Joint Working) (Scotland) Act 2014 is a complex Act to implement. However the volume and structure of these regulations add to the complexity and this will put successful implementation at risk. It would be very helpful if the number of regulations (currently 11) was reduced to a smaller number of substantive regulations.

There are also inconsistencies in this regulation with the content of the other draft regulations. This regulation does create the risk of duplication of scrutiny of detailed operational matters between the integration joint boards and the NHS Board and the local authorities.

It is assumed that NHS Boards and local authorities will continue to have responsibility for their existing performance targets. It is not understood why the proposed content of integration schemes should go into detail in this area.

Community Empowerment Bill

The Scottish Government introduced the Community Empowerment Bill on 11 June 2014, after the start of this consultation process for the Public Bodies (Joint Working) (Scotland) Act 2014. This Bill amongst other things introduces statutory responsibilities for NHS Boards with regard to community planning, and makes the integration joint board a community planning partner in its local authority area. There is no reference to these issues in either the Act or the draft regulations and orders.

This Bill does contain significant governance responsibilities for integration joint boards and their constituent authorities. As a community planning partner, section 9 of the Bill confers duties on these bodies; to co-operate with other community planning partners, to contribute resources as the community planning partnership considers appropriate; to provide information about local outcomes to

the community planning partnership; and when carrying out its functions, to take account of the local outcomes improvement plan.

There is also a considerable risk of confusion and duplication of activities with regard to the role of integration joint boards under the Act, and the role of Community Planning Partnerships and community planning partners under the Bill.

In particular there needs to be clarity on:

- the setting of outcomes (health & wellbeing outcomes (Act) v national outcomes (Bill)
- The relationship between the integration joint board strategic plans (as developed in terms of the Act), and the local outcomes improvement plan which must be prepared by a community planning partnership (the Bill).
- The integration joint boards are to carry out the functions delegated to them, and have all the powers and duties to do so. However under the Community Empowerment Bill the health board and the local authority must facilitate community planning and take reasonable steps to ensure the community planning partnership carries out its functions effectively. The Bill does not require the integration joint boards to do so.

In the interests of supporting the implementation of Government policy and the Act, more needs to be done to ensure that the Regulations and Orders take full account of all the things the public bodies have to do, and that they are clear and consistent.

Responsibility of Overspend

The draft regulation does not provide direction on how to manage overspend and NHS Lothian recommends that a process to manage overspend is prescribed through the regulations.

NHS Lothian recommends that the Integration Joint Board's resources should be regarded as a single resource. Consequently if either the NHS Board or the Council overspend on the resources given to them by the IJB, then it should be agreed that the overspend will be picked up by both parent bodies on a 50/50 basis. That way both parent bodies share the risk and neither parent body is solely disadvantaged as a consequence of an IJB direction.

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Further Comments

- The presentation of prescribed matters should be simplified. A table such as the one below would be very helpful.

Prompt	INTEGRATION AUTHORITY – Section 59	
	Integration Joint Board	Health Board/ Local Authority/ Health Board and Local Authority acting jointly
The operational role of the chief officer	Information on the structure and procedures which will be used to enable the chief officer to work together with the senior management of the constituent authorities to carry out functions in accordance with the strategic plan.	Not applicable

- (Pages 16 & 17) Memberships of the Integration Joint Boards and Integration Joint Monitoring Committees should not be detailed in this Regulation, as this is covered in separate regulations. There should be a cross-reference to those other regulations, or some sort of consolidation. We have identified a number of issues and discrepancies with regard to the proposed membership, and this shall be fed back elsewhere in our response to the other regulations.

- (Page 17 & 18). There has been no indication to date to suggest that the responsibility for current NHS Board targets will transfer to the integration authority. There is a prompt that suggests this is the case. It is unclear why an integration authority (particularly an IJB) would be interested in performance targets for non-delegated functions. It would be helpful if the relationship between IJB performance requirements and the ongoing NHS Board and Council performance requirements were better explained.

An alternative approach for the above two bullets could be:

- The process as to how the Integration Joint Board will be assured by the Health Board and local authority as to their systems of internal control, quality etc (assurance needs). Ideally this means drawing assurance from existing governance processes in the Health Board and local authority.

- How the Integration Joint Board will receive relevant information to inform its performance report.

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- (Page 18- Clinical and Care Governance). In terms of structure it would make sense if the headings of financial, staff, information governance were also used to organise the various prompts in this regulation.

- (Pages 18 & 19): It should be clear that the term "Chief Officer" only applies when an Integration Joint Board is being created.

- (Page 19 – Transfer of staff) Integration Authorities will require a period to develop and implement their strategic commissioning plans which will inform if and how many staff will transfer between constituent authorities. This section should either be removed from the regulation or instead the prescribed information should be changed to require information on the *process* to transfer staff instead of the approximate number who will transfer.

- (Page 19 – Financial Management of an integration joint board). The effect of the Act means that the integration joint board is subject to Part 7 of the Local Government (Scotland) Act (1973). This means that the integration joint board will have its own "section 95" officer who is then responsible for the proper administration of financial affairs. It is a fundamental issue to confirm who that officer shall be (or at least when he/she will be appointed), and that person will then attend to other matters in the 1973 Act.

- Page 19: Each integration authority must produce an annual financial statement (Section 39 of the Act). The draft regulation only attaches this responsibility to integration joint boards, and leaves out the lead agency model.

- (Page 19 – Financial reporting to an integration joint board). Integration joint boards are responsible for the financial consequences of their plans, so there has to be some mechanism that will recognise this and facilitate any required action.

- Pages 21 & 22 – Risk Management: There are a number of conceptual flaws in here. The health board, local authority, and integration joint board are three distinct legal entities. They are entitled and required to devise their own risk policies and associated risk appetites. A single list of risks does not recognise any of this, or how risk management should work. If a lead agency model is used, then the risk policy of the integration authority applies.

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?

   No

NHS Lothian Response to Set 1

ANNEX 2(D)

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 [X]

No [ ]

2. If no, please explain why:

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

No

NHS Lothian Response to Set 1

ANNEX 3(D)

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:

NHS Lothian response:

Independent Providers

General Dental Services, General Ophthalmic Services and General Pharmaceutical Services should be on the MUST list.

These are vital primary care services to which the local population requires access and which are core in maintaining the health of the population. They also work closely with many of the prescribed NHS and Social Care functions.

It is recognised that the budgets are not easily disaggregated to Integration Authorities where there are more than one in a Board area, but this does not prevent the Integration Authorities having the delegated function, including these services in their strategic plans and agreeing that the NHS Board Primary Care Contractor function will carry out the contractual and budgetary work on their behalf. If these services are not delegated these groups of independent contractors will remain disengaged from local planning.

Civil Contingencies Act

The text identifying the functions from this act that must be delegated relates to a different act. Clarification is required on which parts of the Act will be included in the Regulations.

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

Yes ☐

No ☒

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

NHS Lothian response

We have a general comment regarding the terms used to describe functions which will be prescribed - the terms used in the final set of regulations must describe health functions accurately to support Boards and Integration Authorities. See our response below.

Acute Services

NHS Lothian supports the principle that services provided in hospital associated with the unplanned care pathway for frail older people, and people with long term conditions should be delegated to the Integration Authorities for the purpose of strategic planning.

However, we are concerned about the adverse impact this principle may have on the delivery of acute hospital services and support the proposal that where a large hospital serves the populations of several local authorities, the Health Board can identify and "set aside" the appropriate portion of the hospital budget, rather than physically paying it out. Use of that part of the budget will be directed by the Integration Authority via the strategic plan, which will be developed with the full involvement of the Health Board and Local Authority. This proposal needs to be included in the Regulations.

Hospital Strategic Plan

We strongly recommend that in Health Board areas where there are multiple Integration Authorities that there is a requirement in the regulations for a strategic plan for hospital functions to be produced and owned by the Health Board which has been agreed with the local Integration Authorities.

Hosted Services within scope of CHP

The consultation (page 45) confirms that all services already within the scope of CHP arrangements *must* be delegated to Integration Authorities. NHS Lothian agrees that almost all services currently within the scope of CHPs will be delegated but there are some specific services (e.g. prison healthcare) which are currently managed by a CHP but will not be delegated. The regulations need to provide for this situation.

Home Dialysis

Dialysis services delivered in the home should not be included because they are an integral part of renal services, a function which is not being delegated to the Integration Authorities.

Screening

We require further clarification on the inclusion of screening for early disease under 'health promotion' (page 50) and 'services designed to promote public health' (page 56) We have interpreted these statements in the Regulations as describing identification of individual risk factors for disease rather than national screening programmes which we have assumed will not be delegated to Integration Authorities but this requires clarification.

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.

NHS Lothian response

Schedule 2 uses terminology which is not commonly used by NHS management and at times is unclear as to its meaning. The following changes are suggested;

- Replace "unplanned inpatients" with "unscheduled medical admissions".
- There is a National Benchmarking Project which produces a National Efficiency & Productivity Scorecard. This uses 29 indicators, one of which is "preventable admissions". Perhaps there is an opportunity to use this work to define the relevant services / activity?
- Remove "Outpatient Accident and Emergency Services". Schedule 2 defines this as "urgent or emergency" whilst the consultation document refers to "minor problems who do not require admission but do require review". Perhaps an alternative definition is "Unscheduled care for patients whose clinical condition does not require an urgent response or do not require to be treated as an emergency."
- Replace "Care of Older People" with "Scheduled Medical Care for Older People"
- Women's services: Why make the distinction for women's health services, if there is a catch-all requirement to cover all adult services?

NHS Lothian Response to Set 1

- Services designed to promote public health: This needs reviewed, as the policy consultation (pages 47-50) refer to health promotion rather than public health.

- Health visiting is predominately a service for children, rather than people over 18 years old. It would be helpful to clarify what services are envisaged by this prompt.

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

NHS Lothian response

No

NHS Lothian Response to Set 1

ANNEX 4(D)

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:

NHS Lothian response

The Act requires Integration Authorities to have regard to these outcomes when preparing the integration schemes (section 3) and the strategic plan (section 30). Section 42 requires a performance report in planning and carrying out integration functions.

NHS Lothian supports the principle of using outcomes but recommend that the regulations should explain that the performance report will need to focus on the indicators that support achievement of the outcomes and not on the outcomes themselves.

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?

NHS Lothian response

We recommend that the outcomes Integration Authorities are required to achieve through their Strategic Plans are explicitly linked to the six dimensions of quality – health and social care services are safe, effective, person-centred, equitable, timely and efficient.

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?

NHS Lothian Response to Set 1

Yes	☐
No	X

5. If not , why not?

NHS Lothian response

The outcomes are too broad, overlapping, and are not measurable.

There is also a risk that there is an unrealistic expectation on the ability of an individual integration authority to affect any of these outcomes in a significant way. Many of the outcomes relate to wider economic and social factors which the integration authorities cannot control and would be more suitable to be stated outcomes within Community Planning Partnerships.

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

NHS Lothian response

The following points relate to specific outcomes in the draft regulations:

Outcome 1 and 2 overlap because living in good health can include living where you want to.

Outcome 4 does not appear to relate to the policy background. The policy background is about geographical access to health and social care services and quality of service provision.

It is not clear if Outcome 8 is about continuous quality improvement or about staff experience or engagement.

Outcomes 8 and 9 as they are currently written are not in themselves “outcomes”. These outcomes are already expressed in the integration delivery principles: Section 25 (1) (b) (xii) – “*makes best use of available facilities, people, and other resources*”).

ANNEX 5(D)

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 ☒ X

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

NHS Lothian response

Public Health Specialists have been excluded from the list of health care professionals and need to be included.

We are unsure about the inclusion of Chiropractors and Osteopaths in this term.

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 ☒ X

No ☐

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

NHS Lothian response

No comment

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

NHS Lothian response

The list of prescribed healthcare professionals includes dentists, optometrists and pharmacists but the primary care contractor elements of these professionals'

services are excluded from the list of delegated functions. This is not consistent. As indicated in 3(D) we believe that these functions should be on the MUST list of delegated functions.

ANNEX 6(D)

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?