

Consultation on the Draft Regulations Relating to Public Bodies (Joint Working) Scotland 2014 – Set 2

Response from Inclusion Scotland

Inclusion Scotland (IS) is a national network of disabled peoples' organisations and individual disabled people. Our main aim is to draw attention to the physical, social, economic, cultural and attitudinal barriers that affect disabled people's everyday lives and to encourage a wider understanding of those issues throughout Scotland. Inclusion Scotland is part of the disabled people's Independent Living Movement.

This response has been informed by the views of disabled people themselves, following consultation events held with disabled people on health and social care integration last year. These led to the publication of "It's our world too: 5 asks for a better Public Bodies (Joint Working) (Scotland) Bill"¹ (the 5 Asks), which in turn informed our engagement with the Scottish Parliament during the passage of the Bill.

A number of the key issues of concern raised by disabled people during the passage of the Bill, including aspects of the "5 Asks", were issues that were considered more appropriate for Regulations and Guidance. We recognise that some of these will be dealt with in guidance, but we believe that key issues such as independent living, a rights based approach, coproduction, engagement and involvement of disabled people and capacity building should be reflected in the regulations.

Inclusion Scotland has responded separately to the Consultation on the Draft Regulations Relating to Public Bodies (Joint Working) Scotland 2014 – Set 1.

1 Draft Public Bodies (Joint Working) (Prescribed Consultees) (Scotland) Regulations 2014:

1.1 One of the "5 Asks" coproduced by disabled people and Disabled People's Organisations said "It is important that disabled people, other users of the integrated systems and the wider Third sector, are involved in leading, not just on the principles of an integrated system, but on how

¹ The 5 Asks can be downloaded from www.ilis.co.uk

money within it is spent, including: eligibility to access it, assessment for it, and principles for its use.”

- 1.2 Disabled People’s Organisations (DPOs) are organisations of disabled people that are run by disabled people themselves. They are different from other disability organisations that provide services for disabled people. DPOs are the representative organisations of disabled people and provide the unmitigated voice and direct lived experience of disabled people.
- 1.3 Inclusion Scotland therefore welcomes that users of health care, users of social care and third sector bodies carrying out activities related to health and social care are included in the list of standard consultees.
- 1.4 We recognise that guidance will be able to give more details about who is to be included within the definition of the standard consultees, but we are concerned about the lack clarity in the draft regulations, and in particular that there is no specific mention of disabled people or their representative organisations.
- 1.5 Disabled people are not a “service user group”, but disabled people are often particularly heavy users of social care and sometimes (although not always) healthcare. There is an unique value and importance of the perspective that disabled people can bring, including an understanding through lived experience of barriers and what works and what does not work This can save time and money of integrated health and social care authorities,
- 1.6 Disabled people are well-placed to monitor the impact of integration ‘on the ground’. If the aim of integration is to improve the well-being of people who use services, the people best-place to gauge success are people who use services themselves.
- 1.7 It would be helpful to clarify how “users of health care” will be defined, as this could be as wide as any member of the public (as we are all users of the NHS). As one of the main aims of Health and Social Care Integration is to move people out of traditional health settings it may be difficult to identify who is a “user of heath care” for the purposes of this Act.
- 1.8 Third sector bodies are also not defined in these draft regulations, and it would be helpful to clarify if it is intended to include “representative groups, interest groups, social enterprises and community organisations”, as defined in the consultation paper at Annex 4(A) on the draft Public Bodies (Joint Working) (Members of Strategic Planning Group) (Scotland) Regulations. It will be important to ensure that the voices of DPOs are not drowned out by those of bigger, better resourced

disability organisations that do not represent the direct voice of disabled people, and others within the third sector.

- 1.9 It is not clear how “operate within the local authority area” will be defined – for example will it include or exclude DPOs who operate on a national/regional level to represent their members, who may live in the particular local authority area?
- 1.10 It will largely remain with the local authority, health board and integration authority to determine who and how to consult. Significant work has already been done to establish shadow Integration Authorities. We have serious concerns about levels of understanding when it comes to ensuring engagement methods are accessible and do not inadvertently exclude.
- 1.11 Evidence being gathered by Inclusion Scotland and Self Directed Support Scotland (SDSS) from Local Authorities has identified a patchy and inconsistent approach to consultation and the involvement of service users. This signals the need for a more proactive approach, if DPOs and disabled people who use services are to be enabled to contribute all that they usefully could to making integration a success.
- 1.12 There is a clear need to develop the engagement capacity and skills of local authorities, health boards and integration authorities, but also third sector interface organisations, through which third sector engagement is to be channelled.
- 1.13 DPOs also have capacity-building requirements. They are often under-resourced, and without direct access to those they need to influence. This was reflected in one of the “5 Asks” of disabled people for the Public Bodies (Joint Working) (Scotland) Bill
“The Bill should be amended to ensure that disabled people have access to advocacy and that their representative organisations – DPOs – have the capacity to be able to fully participate in the design and delivery of integrated health and social care services.”

2 Draft Public Bodies (Joint Working) (Proceedings, Membership and General Powers of Integration Joint Boards) (Scotland) Regulations

- 2.1 The draft regulations specify that non-voting members must include one person from each of the specified groups. Whilst the consultation paper makes clear that this is the minimum non-voting advisory membership it would be helpful if the regulations made this clearer. Where there an Integration Joint Board (IJB) covers 2 or more local authority areas it may be particularly important to have additional representatives.

- 2.2 The non-voting members will be appointed by the Integration Joint Board (IJB). However, the regulations do not include the advertising, application and selection process for appointments, who the appointees are accountable too, and how independent the appointees can be of the IJB that appoints them. The process must be fully accessible and not inadvertently exclude the very people they are seeking to target.
- 2.3 The draft Regulations make provision to enable an IJB to remove a member from office who “acts in a way which brings the integration joint board into disrepute or in a way that is inconsistent with their membership of the board.” While we appreciate the need for safeguards, this needs to clarify that the removal cannot just be because the member has challenged, or is campaigning against, a decision of the IJB, as this would compromise the independence of advisory members. Perhaps this can be resolved by having any decision to remove a member from office reviewed by the Commissioner for Public Appointments in Scotland.
- 2.4 The Schedule on what must be included in the Standing Order of the IJB needs to be clearer about what parts apply to voting and what parts to non-voting advisory members. For example, what provision is there for non-voting members to appoint deputies?
- 2.5 The Standing Order on conflicts of interest has been written from the perspective of a voting member. It also needs to address potential conflicts of interest of non-voting advisory members, for example where they are non-commercial providers of care or social enterprises.
- 2.6 The Standing Orders should include a requirement that meetings of the IJB, and its Committees, shall be held in public unless dealing with specified reserved issues (as is currently the case for the constituent authorities).

3 Draft Public Bodies (Joint Working) (Proceedings, Membership and General Powers of Integration Joint Monitoring Committees) (Scotland) Regulations:

- 3.1 These regulations set out the proceedings, membership and general powers of an Integration Authority where an Integration Joint Monitoring Committee (IJMC) model has been chosen. They broadly mirror those in the Draft Public Bodies (Joint Working) (Proceedings, Membership and General Powers of Integration Joint Boards) (Scotland) Regulations and the comments we have made in relation to those regulations apply equally to the IJMC model.

4 Draft Public Bodies (Joint Working) (Members of Strategic Planning Group) (Scotland) Regulations:

- 4.1 These regulations set out that the Strategic Planning Group must contain representatives of the groups included in the list of standard consultees defined in the Draft Public Bodies (Joint Working) (Prescribed Consultees) (Scotland) Regulations 2014. Our comments on those draft regulations are relevant here.
- 4.2 Specifically, here is no specific requirement to include disabled people or their representative organisations (DPOs).
- 4.3 It will be for the Integration Authority to determine who will represent the groups referred to in the Schedule on the Strategic Planning Group. In order to ensure that the process does not inadvertently exclude the very people they are seeking to target, it must be is open and fully accessible.
- 4.4 It would be helpful if the regulations could specify that Integration Authorities should consult with those people within their area who consider themselves to be standard consultees on the procedures for identifying and appointing the representatives to the Strategic Planning Group.

5 Draft Public Bodies (Joint Working) (Content of Performance Reports) (Scotland) Regulations

- 5.1 Inclusion Scotland welcome the draft regulation that the prescribed content of the performance report includes information about the way in which the arrangements set out in the strategic plan and the expenditure on these arrangements have contributed to the provision of services in accordance with the integration delivery principles during the reporting year.
- 5.2 In line with the “5 Asks” of disabled people, Inclusion Scotland would like to see particular emphasis given to how the Integration Authority has taken account of:
 - the particular needs of service users;
 - the particular characteristics of and circumstances of different services users;
 - the rights of services users;
 - the dignity of service users;
 - the participation of service users in the community in which they live
 - and
 - how services are planned and led locally in a way which is engaged with the community (including in particular service users, those who

care for service users and those who are involved in the provision of health and social care)

5.3 Disabled People and the DPOs who work with them, are best placed to know what that impact has been.

5.4 The description of any “consultation and involvement of groups in decisions about localities, and an assessment if the effect this consultation has had” should include:

- What steps the Integration Authority has taken to ensure that service users and their representative organisations have been supported to participate in the process, including through co-production; and
- What measures the Integration Authority has taken to ensure its process are fully accessible so as not to inadvertently exclude the people they should be targeting.

If you have any questions on this consultation response, or for further information, contact:

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