Final Business and Regulatory Impact Assessment

Public Bodies (Joint Working) (Scotland) Bill

The Scottish Government
Riaghaltas na h-Alba

Final Business and Regulatory Impact Assessment

Title of Proposal

Public Bodies (Joint Working) (Scotland) Bill

Purpose and intended effect

Background

The integration of health and social care represents the radical reform required to improve care, particularly for adults with multiple complex needs for support, many of whom are frail older people, and to make better use of the substantial resources that we commit to adult health and social care. The Bill will bring forward legislation to remove Community Health Partnerships from statute. Instead, the Bill will create an integration authority which will be the joint and equal responsibility of Health Boards and local authorities.

Objective

The Scottish Government's vision of a successfully integrated system of adult health and social care for Scotland is that it will exhibit the following characteristics:

- Consistency of outcomes across Scotland, so that people have a similar experience of services, and carers have a similar experience of support, whichever Health Board or local authority area they live within, while allowing for appropriate local approaches to deliver;
- A statutory underpinning to assure public confidence;
- An integrated budget to deliver community health and social care services and also appropriate aspects of acute health activity;
- Clear accountability for delivering agreed national outcomes;
- Professional leadership by clinicians and social workers; and
- It will be simpler rather than complicate existing bodies and structures.

The four key principles that underpin these reforms are:

- Nationally agreed outcomes to apply across adult health and social care;
- Health Boards and local authorities are to be jointly and equally accountable for the delivery of those outcomes;
- Integrated resources (budgets and human resources) will apply across the spectrum of adult health and social care provision; and
- Encouraging strong clinical and professional leadership, and the engagement of the third and independent sectors, in the commissioning of adult health and social care services.

Additional provisions within the Bill

The following additions to the Bill were not part of the consultation on the Integration of Adult Health and Social Care in Scotland. We recognise that these additions could affect businesses, particularly changes to the functions of the Common Services Agency.

(i) Joint Venture Structures

The Bill gives Health Boards the power to form and participate in forming joint ventures companies, to be extended to allow for a wider range of company structures (as currently available to local authorities) and functions that will allow for the more efficient procurement of facilities (initially via the hub initiative), promote effective joint working and support the aims of the Public Bodies (Joint Working) (Scotland) Bill.

(ii) Common Services Agency (CSA)

We are expanding the remit of the Common Services Agency (also known as NHS National Services Scotland or NSS) via a Public Services Reform Order, from a provider of shared services to NHS bodies only, to a provider of shared services to Scottish public bodies (including local authorities) where this would produce operating and cost efficiencies.

Many of the desired amendments to the remit of CSA can be made by means of a Public Services Reform Order. We consulted on the draft Public Services Reform and will continue to engage with stakeholders to monitor potential impacts on business. The Bill replicates the effect of the Public Services Reform Order through an updated approach.

(iii) CNORIS

CNORIS scheme is a self-insurance scheme operated by the NHS in Scotland for meeting losses and liabilities etc of certain health bodies. The scheme makes provision to meet expenses arising from any loss or damage to 'bodies' property and liabilities to third parties for loss, damage or injury arising out of carrying out of the functions of members of the scheme.

It is intended that the Bill will make provision to extend the CNORIS scheme to include social work functions to which the scheme applies and to include local authorities and incorporated integration joint boards amongst the bodies which can participate in the scheme.

How it fits in with Scottish policy

(i) Legislation

The Public Bodies (Joint Working) (Scotland) Bill will supersede and replace the following:

- The Community Health Partnerships (Scotland) Regulations 2004; and
- The Community Health Partnerships (Scotland) Amendment Regulations 2010.

In addition to the above, other legislation that will be directly affected by the integration agenda are legislation relating to the NHS and local authorities:

- Social Work (Scotland) Act 1968;
- National Health Service (Scotland) Act 1978;
- National Health Service Reform (Scotland) Act 2004;
- National Health Service Reform (Scotland) Act 2004;
- Local Government (Scotland) Act 1973;
- Local Government etc. (Scotland) Act 1994;
- Local Government in Scotland Act 2003; and
- Public Services Reform (Scotland) Act 2010

(ii) Policy

The integration of adult health and social care services may have implications for a number of other functions, including children and families social work services and criminal justice social work. Work has been undertaken by the Chief Social Work Adviser to ensure that the implications for other areas of service are understood and planned for. Furthermore, we have ensured there is alignment and coherence between the concurrent legislation including the Children and Young People Bill[1] which, in part, places duties on statutory partners, with respect to planning, design and delivery of children's services. An important aspect of the integration of adult health and social care will be ensuring that, as well as bringing primary and secondary health, and health and social care, closer together, partners fully include housing and other appropriate areas of services in the integrated approach.

The Public Bodies (Joint Working) (Scotland) Bill sets out our requirements for integration. These will be applied as a minimum to adult health and social care services. Legislation will specify the minimum content of an integration plan. The integration plan will set out the functions delegated to the integration authority or to either Partner in the case of a 'delegation between partners' model. The delegation of functions to the integration authority or to either Partner will have implications for all policies linked to the delegated services.

The Bill also provides the framework to support the Scottish Government's policy of Reshaping Care for Older People[2][3], which aims to ensure that the care people receive is more appropriate and personal to their needs. Under this policy, there is likely to be a shift from a focus on institutional forms of care, towards care in the home and community settings.

[1] Children and Young People Bill http://www.scotland.gov.uk/About/Performance/programme-for-government/2012-13/Children-Young-People-Bill
[2] Consultation on the Draft Public Services Reform (Functions of the Common Services Agency for the Scottish Health Service) Order 2013 http://www.scotland.gov.uk/Publications/2013/02/8148
[3] Reshaping Care for Older People http://www.scotland.gov.uk/Topics/Health/Support-Social-Care/Support/Older-People/ReshapingCare

Self-directed support provides for choice and control for service users and carers about how their support is provided. The focus is on delivering better outcomes through focused assessment and review, improved information and advice, and a clear and transparent approach to support planning. The strategy is part of a wider reform agenda, and reflects the common goals of current health and social care policy including the integration agenda to deliver better outcomes for individuals and communities. The Social Care (Self Directed Support) (Scotland) Act[4] provides a legislative framework for choice and control of provision of services by placing duties on local authorities to provide the range of options available to citizens.

How it fits in with UK policy

The Health and Social Care Act 2012 includes principles such as clinical commissioning and greater local accountability, and comes during a period when Welfare Reform by the UK Government will transform the benefits of vulnerable people in Scotland. We do not anticipate either pieces of legislation having a direct impact on the integration of adult health and social care in Scotland.

How it fits in with European policy

The Public Bodies (Joint Working) (Scotland) Bill and the broader integration policy will not have any EU or international implication.

Rationale

We know from clinicians and other professionals who provide health and social care support that, where it is appropriate and safe to do so, it is better for people's wellbeing if they are supported in their own homes or a homely setting in the community, rather than being admitted unnecessarily to hospital.

Despite a good track record of partnership working over the years, our current system of health and social care still incorporates within it barriers in terms of structures, professional territories, governance arrangements and financial management that often have no helpful bearing on the needs of the large, growing group of older service users, and in many cases work against general aspirations of efficiency and clinical/care quality. We need to reform the system to deliver care that is better joined up and as a consequence delivers better outcomes for patients, service users and carers.

Our goal for integration of health and social care is to tackle these challenges to ensure that the balance of care shifts from institutional care to services provided in the community, and that resources follow people's needs. This is in line with our commitment to a person-centred approach which builds on the principles of the Healthcare Quality Strategy for NHSScotland[5].

[4] Self-Directed Support Act
http://www.scotland.gov.uk/Topics/Health/Support-Social-Care/Support/Self-Directed-Support/Bill
[5] The Healthcare Quality Strategy for NHSScotland
http://www.scotland.gov.uk/Resource/Doc/311667/0098354.pdf

This policy will contribute to delivery of several National Outcomes including:

- We live longer, healthier lives;
- We have tackled the significant inequalities in Scottish society;
- We live in well-designed, sustainable places where we are able to access the amenities and services we need;
- Our people are able to maintain their independence as they get older and are able to access appropriate support when they need it;
- We have strong, resilient and supportive communities where people take responsibility for their own actions; and
- Our public services are high quality, continually improving, efficient and responsive to local people's needs.

The challenge for health and social care services is seen in projections for demographic change in terms both of the expected growth in the older population and in terms of rising costs for health and social care for all ages. Over the next 20 years health and social care costs in Scotland are expected to rise by a total of £2.5 billion, so that by 2031 total annual costs will exceed today's by £2.5 billion, at today's prices.

The analysis that the Scottish Government published in support of our Reshaping Care for Older People programme showed that emergency admissions to hospital account, annually, for about one third of the total health and social care spend for people aged 65+; approximately £1.4 billion in 2007/08[6].

In 2010/11, nearly two thirds of health and social care expenditure on people aged 75+ was in institutional settings (care homes and hospitals)[6].

With a shift to community provision, there is scope to reduce these pressures and deliver better outcomes for people. The principles of the integration agenda will help to address these funding and demographic challenges over the longer term.

Consultation

The development of the Bill has been undertaken in a collaborative way, with extensive engagement with internal and external stakeholders.

Within Government

We have engaged with a wide range of colleagues across the Scottish Government to develop the Bill including:

- ACSD: Policy for Carers
- ACSD: Self Directed Support (direct payments)
- CLLS: Family and Property Law
- DCAF: Children's Rights and Wellbeing
- DCAF: Office of the Chief Social Work Adviser

[6] The Reshaping Care for Older People: A Programme for Change 2011-2021 http://www.scotland.gov.uk/Topics/Health/Support-Social-Care/Support/Older-People/ReshapingCare

- DFEP: Pharmacy and Medicines Division
- DHSCI: Chief Dental Officer and Dentistry Division
- DHSCI: Integration and Reshaping Care (reshaping care team)
- DHSCI: Joint Improvement Team
- DHWP: Health Workforce and Performance and Support
- DJUST: Community Justice
- EAC: Better Regulation and Industry Engagement
- EAS: Employability, Skills and Lifelong Learning Analysis
- HCNO: CNOD Policy Unit
- HRS: Housing Transitions and Support
- LG: Local Government Outcomes and Partnerships Unit
- PCARE: Primary Care Development
- PHARM: Pharmacy Branch
- PHD: Tobacco, Alcohol and Diet (alcohol team)
- PSP: Public Involvement
- RCMHD: Protection of Rights Unit
- SCD: Drugs Policy Unit
- TQU: Analytical Services
- TQUAS: Resources, Efficiency and Workforce

Scottish Government colleagues have helped to identify businesses and/or organisations to consult with and are ensuring that the integration of adult health and social care is aligned with other policies across the health and social care directorate.

Scottish Government officials provided input regarding the potential impacts. Further detail can be found in the 'Scottish Firms Impact Test' section.

Stakeholder Engagement Prior to the Public Consultation

In 2010, the Scottish Government carried out a wide public and professional engagement exercise for the Reshaping Care for Older People[2] policy. This policy aims to shift the model of care across Scotland from being heavily institution based, to a more community based support. From this we know that there are three main problems with the current system that people want us to address:

- Inconsistency in the quality of care for adults and older people across Scotland;
- People are too often unnecessarily delayed in hospital when they are clinically ready for discharge; and
- The services required to enable people to stay safely at home are not always available quickly enough, which can lead to preventable and undesirable admissions to hospital.

In 2011, following the Scottish elections and as preparation for developing these proposals for legislation, the Scottish Government engaged with a wide range of stakeholders including the statutory partners, third and independent sectors and professional and staff organisations. The consultation proposals were developed from this period of engagement. Ministers announced the Scottish Government's

commitment to improving health and social care outcomes and outlined proposals for reform that would assist in achieving that aim, at a debate[7] held on 15 December 2011.

Public Consultation

The public consultation process included an invitation for individuals and organisations to submit written responses to the **Integration of Adult Health and Social Care in Scotland: Consultation on Proposals**[8] document; and consultation events/meetings. The consultation ran from 8 May until 11 September 2012 and 315 written responses were received. A partial BRIA was included within the consultation document and respondents were encouraged to provide comments regarding the potential impacts on business.

Nine public and practitioner events were held over the summer where around 900 people attended. The target audience included health and social care professionals from statutory and non-statutory organisations; carers; users of health and social care services; and members of the public more widely. In addition, Scottish Government officials contributed to around fifty local events including focus groups, local forums and seminars. This provided Scottish Government officials the opportunity to talk to around 2000 people.

A report of the analysis of the consultation responses[9] was published on 19 December 2012. The Scottish Government published its response to the consultation analysis[10] on 13 February 2013.

The Bill Advisory Group[11] was convened on 16 March 2012 and informs the development of the legislation for the integration of adult health and social care. The Bill Advisory Group will support development of the Bill and, if necessary and appropriate, during the parliamentary process. The Group provides an overview of the policy work directly relating to the development of the Bill. The Cabinet Secretary for Health and Wellbeing has committed to Chairing relevant Bill Advisory Group meetings, with the COSLA Health and Wellbeing Spokesperson. The Bill Advisory Group takes into account other policies, strategies and other relevant Bills. Membership and minutes from the meetings can be accessed on the Scottish Government website[11].

[7] Official Report Debate Contributions: Meeting of Parliament 15 December 2011 http://www.scottish.parliament.uk/parliamentarybusiness/28862.aspx?r=6627
[8] Integration of Adult Health and Social Care in Scotland: Consultation on Proposals http://www.scotland.gov.uk/Publications/2012/05/6469
[9] Integration of Adult Health and Social Care Consultation Analysis Report http://www.scotland.gov.uk/Publications/2012/12/1068
[10] Integration of Adult Health and Social Care in Scotland Consultation: Scottish Government Response http://www.scotland.gov.uk/Publications/2013/02/4208
[11] Bill Advisory Group http://www.scotland.gov.uk/Topics/Health/Policy/Adult-Health-SocialCare-Integration/Meetings

Business

The Public Bodies (Joint Working) (Scotland) Bill places duties on local authorities and Health Boards. We do recognise that a variety of businesses that provide services within the health and social care sector, as well as those that support the provision of such services, will also be affected by the impact of this legislation. This includes independent social care providers, community services such as pharmacy, care homes, suppliers of home care equipment and adaptations, support organisations, providers of care at home.

In July 2012, we hosted two BRIA workshops. The aim was to identify potential impacts that our proposals could have on Scottish businesses. The discussions were broken down into five main categories: costs and benefits to businesses; impact on businesses; commissioning services; IT provision; and data to support statements. The following organisations contributed to the BRIA workshops:

- Community Pharmacy Scotland
- Convention of Scottish Local Authorities (COSLA)
- Directors of Pharmacy
- Mental Health Tribunal for Scotland
- National Pharmacy Association
- Safeguarding Communities – Reducing Offending
- Scottish Council for Voluntary Organisations
- Scottish Federation of Housing Associations
- Society of Local Authority Chief Executives and Senior Managers
- Strathclyde Partnership for Transport

In addition, organisations commented on the potential impacts on businesses by submitting a formal response to the public consultation and/or attending engagement events.

Further detail on the workshops discussions and formal responses can be found in the 'Scottish Firms Impact Test' section.

Options

(1) Do nothing

The integration of adult health and social care will be primary legislation and as such partners will not have the option to do nothing. The current model of commissioning services is not delivering the best possible care for those who need it, and against projected demographic trends, will be unsustainable in terms of finance and institutional capacity. The costs for health and social care in Scotland for all ages are expected to rise by £2.5 billion per annum over the next 20 years. If the delivery of services remain unchanged we will require yearly real increases of 1.25% and 2.7% to NHS and local authority budgets respectively.

- The options presented will provide a framework for the commissioning of care services that are more suited to individual needs and will better balance the

demand on resources between institutional and community based care.

- Community Health Partnerships have been perceived in some areas by GPs and other professionals as having limited devolved decision-making power for limiting their opportunities to play an active role in local service planning and provision. There has also been frustration that some Community Health Partnerships pushed upwards to the parent Health Board and with little influence in particular over acute budgets. The Bill will address those concerns, by requiring locality planning arrangements to be developed and implemented in integration authorities.
- The Bill will place a duty on Health Boards and local authorities to fully involve local professionals, across extended multi-disciplinary health and social care teams and the third and independent sectors, on how best to put in place local arrangements for planning service provision, at the level between partnerships and individual GP practices. Having consulted, integration authorities will be required to put in place, and to subsequently support, review and maintain such arrangements.

(2) Adopt one of two models of integration

Background

The Bill establishes integration authorities and removes Community Health Partnership committees from the statute book. Health Boards and local authorities will jointly be required to set up an integration authority. Each integration authority will cover at least, a single local authority area.

Partnerships may choose not to integrate the budgets for other services along with adult health and social care, in which case the governance for other services might be provided by another Committee arrangement. Other options for the ongoing management of Community Health Partnership responsibilities are also possible. The Bill provides flexibility for the governance and delivery arrangements, and other areas which are currently Community Health Partnership functions, to be left to Health Boards and local authorities to determine. Secondary legislation will provide for the range of functions to be included and those not included in the integrated partnership arrangements.

The Bill requires integration authorities to put in place arrangements for locality planning that will inform the development and assist in the delivery of locally agreed strategic plans and that have the support of the professionals and other care providers who will deliver services.

Our aim is to create a system of health and social care where budgets can be used to best support the individual at the most appropriate point in the system, regardless of whether it is health or social care support that is required.

The Bill describes two options via which Health Boards and local authorities will integrate budgets to achieve this aim. Under these arrangements, integration authorities will be free to choose which approach they take to integrate budgets. Where partners fail to agree a model of integration, Ministers may direct the approach to be taken by the integration authority. Under each option, an integration

plan will establish the nature and scope of the integration authority. Staff could move between employers to support a shift in functions, if there is local agreement to such a change.

The impact of these options on businesses is likely to be the same regardless of which option is implemented, as the partnership will be required to have an integrated budget and achieve the same outcomes within either option. It will be a decision made as a result of the implementation of the strategic plan which must be prepared under both models of integration, which may result in impacts on providers of health and social care services.

Option 1: Delegation between partners model

For the delegation between partners option, the local authority and the Health Board delegate functions either from 'one to the other' or 'to each other'. The delegator will be required to facilitate the allocation and delegation of financial budget for provision of delegated functions from their own organisation's budget to allow the other organisation to provide the services required under the function.

An integration plan between the Health Board and the local authority establishes the functions and resources to be delegated between the partners. The Health Board and local authority will jointly establish a committee to oversee the delivery of the integration plan and thus the provision of integrated services. This model requires the integration authority to formulate a strategic plan to describe which services are to be provided by which body and the money available to provide such services.

Where one organisation delegates its functions to the other, the other organisation provides the services necessary to deliver the function. The Chief Executive of the 'lead agency' would then be accountable through the integration joint monitoring committee to both partner organisations for the satisfactory delivery of the strategic plan.

Option 2: Delegation to a corporate body model

This model requires the Health Board and local authority to delegate agreed functions to the integration authority, which would be established as a body corporate of the Health Board and local authority. The Health Board and local authority agree the outcomes to be delivered and the amount of resources to be committed by each partner to the integrated budget for delivery of services, to support the functions delegated to the partnership.

The new corporate body becomes responsible for delivering the services, with the Board of the integration authority managing and directing the delivery of the services required to achieve the functions that have been delegated. A chief officer will be appointed to develop and implement the strategic plan. The integrated budget would be managed on behalf of the integration authority by the chief officer, whose authority and accountability in relation to delivery of the partnership's delegated functions will be determined by his or her statutory functions. The integrated budget would consist of the respective contributions from each partner organisation, each

managed by the chief officer and subject to the respective financial governance arrangements of each partner.

An integration plan will establish the terms of the arrangement between the Health Board and the local authority, and arrangements for partners to transfer resource between the two budgets at the discretion of the chief officer. Each delegating partner would retain their legislative responsibility for the functions that had been delegated to the integration authority.

Sectors and groups affected

The groups that we anticipate will be affected by the Bill are:

- Clinical/professional/support health and social care workforce;
- Carers;
- Service users;
- Health and social care providers (NHS, local authority and independent e.g. care homes);
- Statutory bodies; and
- Third and independent sectors.

We believe the biggest impact will be among care home providers and care at home providers, as a more 'joined up' approach to identifying care for individuals is likely to mean a shift away from institutional care being the preferred solution to a person's care needs.

Benefits to business

The main objectives behind both options are twofold: first, to achieve better outcomes for service users; and second, to address the pressures created by the projected demographic change in Scotland. In addressing these objectives, the Scottish Government is aiming to manage fiscal pressures (see figure 1), by delivering a more effective and cohesive service, and better meet the needs of individuals in the system. This will, in turn, benefit health and social care providers by providing increased opportunities to provide care in the home and community setting. This should also ease pressure on the resources of care homes for older people and hospitals, allowing them to devote more time to people who need the most care and attention.

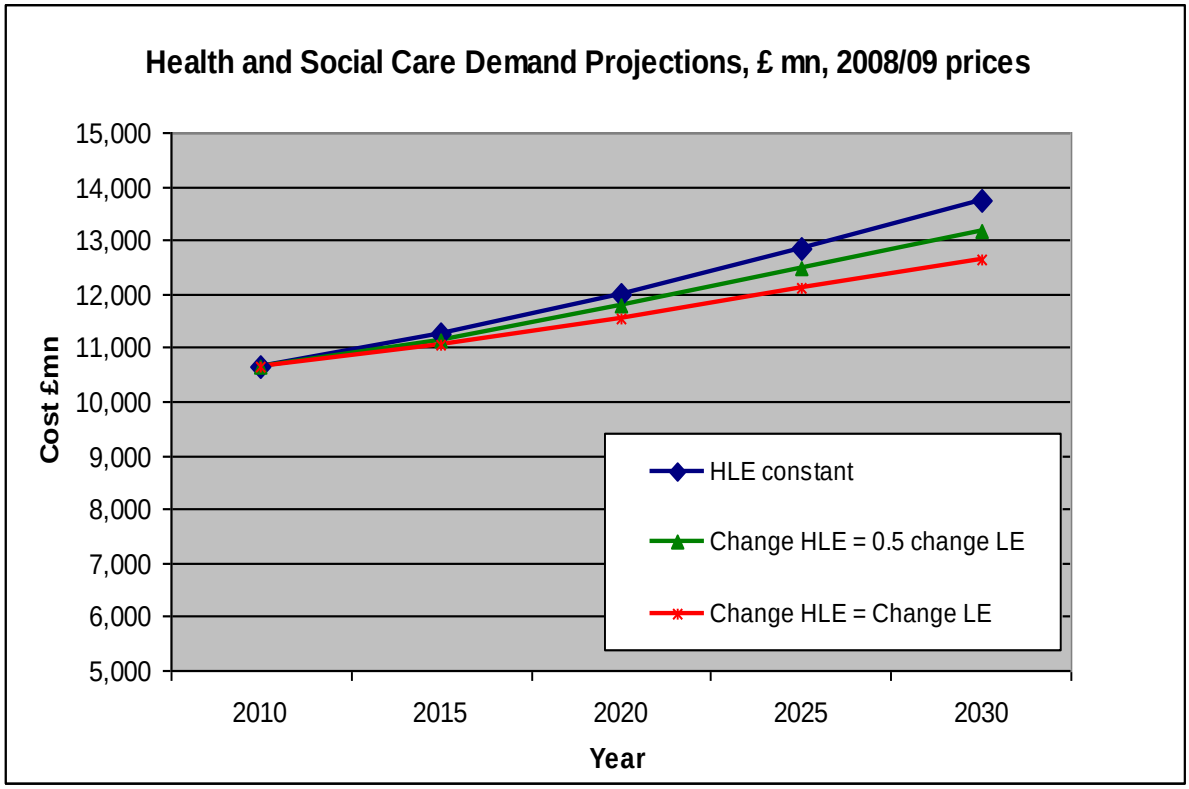


Figure 1: Graph showing the projected increase in costs for social care up to 2030 for three variables. The dark blue line shows the increase in cost assuming that the healthy life expectancy doesn't change i.e. people are healthy until, say, 68 and live until 70 now; and the line projects people who are healthy until 68 but live until, say, 75. The green and red lines show variations of the above idea, with the ideal situation being the red line: healthy life expectancy increases as does life expectancy to give the same time in the 'unhealthy' bracket. This still indicates that the projected increase in costs will be untenable. HLE= healthy life expectancy; LE= life expectancy.

Produced by Scottish Government, Analytical Services Division (Health)

Costs

The cost implications and the potential benefits arising from the models of integration permissible under the Bill are detailed in the Financial Memorandum published alongside the Bill.

Potential costs

We have identified the following areas which we expect will have potential costs or potential savings/benefits as a result of implementing the policy. It is important to note that businesses will be affected to differing degrees across Scotland dependent on the demographics of the area covered by the integration authority, but also in terms of the geography. An integration authority in the Highlands, for example, will face a different set of challenges to their counterparts in Glasgow and Edinburgh. Furthermore, no two individuals' care requirements are exactly the same, and will have different sets of care needs. It is therefore difficult to give meaningful estimates of potential costs and benefits, and any financial estimates should be received with the above caveats in mind. However, the areas in which we anticipate there to be cost implications are:

- Provision of more health and social care in communities, specifically care at home and care home services, pharmacy and community services;
- Costs associated with enabling GPs to participate in locality planning, for example the time spent away from the surgery to attend planning meetings will result in less patients being seen or could require a locum GP to back-fill;
- Costs associated with information technology and data sharing;
- Training and workforce development costs, including up-skilling staff to understand the commissioning process. This may not require attendance at a course, for example, but will require staff having time away from their jobs; and
- Operational environment for providers of health and social care services with respect to the commissioning of services, funding through the integrated budget arrangements and potential impact on demand, price and contractual arrangements.

Potential benefits

Dependent on the geographical area, strength of the partnership and demographics, there could be potential benefits and savings in the following areas:

- Reduction in rates of acute bed use, and length of stay, as care moves into communities and anticipatory services are improved, particularly for the frail elderly population;
- Efficiency savings arise from better understanding of activity, unit costs and reduced variation;
- Savings from reduced cost shunting e.g. reduced delayed discharges;
- Cost savings from potential reduction in number of committees and the requirement to have fewer integration authority than current numbers of Community Health Partnerships;

- Opportunity for businesses to work collaboratively across sectors, form strong relationships, reshape and redefine workforce roles and reduce duplication; and
- Efficiencies achieved through joint working and commissioning.

In addition, with the shift in the balance of care from institutional to community based care, it is likely that the amount of commissioned social care will increase and therefore the spend will shift from institutional to anticipatory and preventative measures. This will have an impact for the third and independent sectors, social work and local community health services, in particular GP practices.

Scottish Firms Impact Test

Input from Scottish Government colleagues

Following discussions with Scottish Government colleagues, we anticipate that businesses associated with social care will be affected to a greater extent than those associated with healthcare. This is because there is far greater plurality of provision in social care in Scotland than in healthcare (with the NHS providing almost all healthcare), and because the commissioning process of procuring social care services is likely to be different in Scotland's local authority areas.

The level of health and social care provided in communities is expected to increase under these proposals. There will be a greater impact on social care businesses, because of the plurality of providers, but there will also be an impact on, for example, pharmacies. We will consider the impact on businesses across health and social care to take account of the range of interests involved. The organisations identified as being the most likely to be affected by the Bill included: Association of Community Health Partnerships; Chartered Institute of Housing; Health and Social Care Alliance; Mental Health Tribunal for Scotland; Royal Pharmaceutical Society; Society of Local Authority Chief Executives and Senior Managers; and Voluntary Health Scotland.

For the joint venture and Common Service Agency procurement proposals, there are no additional regulations or requirements being placed on private sector stakeholders. In respect of collaborative procurement, the powers sought will be used in the context of existing contractual arrangements and documentation. The proposals will not impact on access to public sector markets.

Consultation

There were seven specific responses to the partial BRIA and some additional comments made within the body of the consultation responses. In addition, the Scottish Government held two workshops with a range of stakeholders to further inform the full Business Regulatory Impact Assessment. Stakeholders also provided input at the consultation events and local meetings. The points raised from the workshops, consultation responses and events, relating to the BRIA, are summarised below:

General comments

A general view from both the workshops and consultation responses was the requirement for more detail on the proposals in order to better determine some aspects on the impacts, costs or benefits to business.

In particular, this was identified in relation to the integrated budget and the extent to which the shift towards preventative care would be realised. Respondents to the consultation also made reference to the requirement for clarity regarding the impact on commissioning and procurement practices, with issues on economies of scale and therefore the effect on smaller businesses cited as a concern.

Impacts, Costs and Benefits

- There was an overall consensus that the proposals had the potential to impact on a wide range of businesses in the private and third sector delivering community health and social care services, suppliers to these services, housing services and periphery businesses such as utility providers. It was noted that businesses would be affected to differing degrees across Scotland dependent on the proportion of the population being older people and the geography of communities.
- There was a range of opportunities identified by respondents especially for small businesses. The main thrust of the comments described the opportunity to provide more innovative and person centred community services. The opportunity for 'access' to the integrated budget, which is to include a level of acute spend, was welcomed and it was suggested that this move from silo funding mechanisms would support preventative and up-stream activities. Another theme that was expressed by respondents was the opportunity to work collaboratively across sectors, form strong relationships, reshape and redefine workforce roles and reduce duplication.
- A theme from both respondents to the consultation and face-to-face discussion was cultural differences between the two statutory partners, Health Boards and locals authorities, suggesting that this was a barrier to businesses working across health and social care. Reference was made to the need for the market to adapt to the new arrangements; this in turn would have cost implications especially for smaller or new businesses. It was commented that support may be required to enable smaller businesses to understand and adapt to the competitive tendering process and to facilitate shared ventures which will help deliver partnership working. It was also noted that a greater emphasis should be placed on businesses to support the integration agenda as part of the solution.
- Respondents commented that there will be an impact on businesses as a result of the increasing care at home and in the community. It was further noted that as a result, greater demand for social care services would impact on third sector, social work and GP home visits, placing a greater burden on businesses.

Commissioning of services

- The commissioning of services was a prominent theme of discussion at the workshops and within the consultation responses. It was noted that the commissioning process will require an investment in skills and requires a clear

understanding and transparency of the cost of services and of care pathways. There was support for a commissioning strategy which would provide a common language and bring transparency to the commissioning process, though further detail would be required. A further view made reference to the need for contracts to enable flexibility and creative opportunities.

- Inclusion of local businesses in the planning for local services was cited as essential in order to allow businesses the flexibility to adapt their business model and plan for new arrangements. A respondent also noted that there would be a risk to business with regards to the impact of transition to the new arrangements, specifically demand, price and contractual arrangements.

Challenges and changes for Businesses

- A re-occurring theme from the consultation was that the proposals will provide for change for a range of providers and services of health and social care. In particular, the biggest changes are the integrated budget and how this will be used to maintain people in the community. A third sector response also highlighted the impact on the operational environment, which equally applies to other providers of health and social care services, with respect to the commissioning of services, new funding arrangements and compatibility of information technology systems and data sharing between organisations.
- Key challenges highlighted were the current focus on cost rather than outcomes and the provision of quality of service in the tendering process for social care. One respondent made the point that locality planning, if based around GP clusters, may prove challenging to businesses without networks based around the health sector and therefore result in weaker links with providers of social care and other support functions. In addition, businesses may find it difficult to plan and adapt their business model when decision-making will be determined locally.

Competition Assessment

As part of the consultation process we asked businesses to complete a questionnaire using Officer of Fair Trading(OFT)[12] competition filter questions. This helped to ascertain whether the proposals will impact on competition.

The integration of adult health and social care will potentially create a greater demand for social care services as a result of the desired shift from institutional care to care in the home or sheltered accommodation. The findings from the OFT questionnaire conclude that the Bill is unlikely to prevent, restrict or distort competition in this area.

Test run of business forms
No new business forms will be brought in with the implementation of the legislation.

Legal Aid Impact Test

We have discussed the integration agenda with the Scottish Government Legal Aid Team. The Legal Aid Team confirmed that nothing will impact on the legal aid fund

[12] Office of Fair Trading www.oft.gov.uk

as we are not creating any new offences or penalties and there is nothing to indicate that there will be an increase on individuals seeking legal advice as a result of the legislation. There is no requirement to carry out a legal aid impact test.

Enforcement, sanctions and monitoring

Accountability

The Bill sets out that integration authorities will be established and removes Community Health Partnership committees, which will be taken off the statute book. Health Boards and local authorities will jointly be required to set up an integration authority. Each integration authority will cover a single local authority area, unless consent from the Minister is sought to establish a multi council partnership.

Integration authorities will be accountable to the full Council and the full Health Board, and to the public, for the delivery of nationally agreed outcomes. Outcome measures will focus initially on improving care for adults with complex support needs and will be included in all Community Planning Partnerships' Single Outcome Agreements.

The nationally agreed outcomes will apply across health and social care; will be transparent and accountable locally and to the Scottish Parliament via Ministers; and will provide assurance that local variation is appropriate to local needs, and does not result in variation of quality of care. Providing information and evidence from across health and social care will be critical to demonstrating progress, and external scrutiny processes will be appropriately aligned to support integration of adult health and social care.

Monitoring

A sliding scale of improvement and performance support will be put in place to assure the delivery of national outcomes by integration authorities to ensure sharing of good practice, benchmarking, leadership and organisational development, development of commissioning skills and other priority areas. Where integration authorities fail to deliver national targets, performance support will be offered and, where critical, put in place to assure the delivery of targets.

We recognise that effective collaborative working with external scrutiny partners will be important, and will work with the Care Inspectorate and Healthcare Improvement Scotland to ensure an appropriately integrated approach to reviewing the quality of service and outcomes achieved.

As work progresses on this agenda, we will be considering further methods of monitoring the progress of integration.

Sanctions for non-compliance

Current Ministerial sanctions for failure to deliver under legislative requirements, in broad terms, will apply to the new partnership arrangements. The Bill will provide further detail about the establishment of new partnerships and sanctions for non-compliance.

Implementation and delivery plan

The Bill is scheduled to be introduced in May with a view to receive Royal Assent in February 2014. Implementation is expected to be one year from enactment of the Bill, by Spring 2015.

Post-implementation review

Each integration authority will be required to produce a strategic plan over the medium and long term (3 years and 10 years respectively), which will be reviewed as part of the process of continued assurance. There will be joint scrutiny arrangements of services and commissioning plans carried out by Healthcare Improvement Scotland and the Care Inspectorate.

The Scottish Government will review the legislation to ensure that it is still fit for purpose within 10 years of enactment.

Summary and recommendation

The Scottish Government is legislating to integrate adult health and social care across Scotland. The legislation has been developed in collaboration with partners. Furthermore, the Bill policy has cross party support and we have garnered support with external agencies through engagement events.

We are proposing that as a minimum, adult health and social care services should be integrated and partnerships would be able to integrate additional services if they agree to do so.

The integration of adult health and social care will be driven forward through the formation of integration authorities which will be the joint and equal responsibility of Health Boards and local authorities. Integration authorities will be held to account for their delivery of nationally agreed outcomes.

The legislation provides two models for the governance of the integration authorities: delegation between partners; and delegation to the integration authority, established as a body corporate.

Recommendation/Next steps

We recommend further engagement, by Scottish Government and integration authorities, with businesses identified as most likely to be impacted by the legislation, particularly third and private sector providers. At this stage, stakeholders have been unable to provide an informed view as there is not enough information available to fully assess the potential impact. Stakeholders will be able to contribute more fully once the policy has been agreed.

The Financial Memorandum provides details of support already underway for third and independent sectors. This includes a three year project, delivered by the Health and Social Care Alliance in partnership with other third sector partners, and designed to build the capacity of the third sector to engage with the Reshaping Care for Older

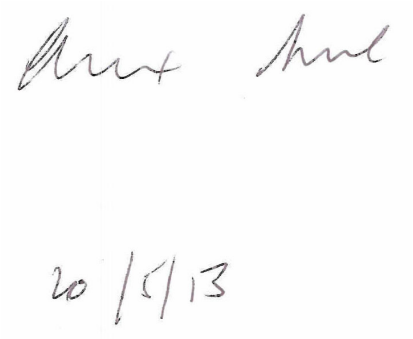
engage with the Reshaping Care for Older People Programme[6]. This project is funded by the Joint Improvement Team and the Third Sector Unit of the Scottish Government.

Summary costs and benefits table
The costs and any potential savings associated with the Bill are detailed in the Financial Memorandum which accompanies the Bill.

Declaration and publication

I have read the impact assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed:



Date:

20/5/13

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