Corporate Policy and Strategy Committee

10am, Tuesday, 5 August 2014

Summary of the Draft Regulations to support the Public Bodies (Joint Working) Scotland) Act 2014

Item number	7.9
Report number	
Executive/routine	
Wards	

Executive summary

The Public Bodies (Joint Working) (Scotland) Act 2014 provides a framework to support improvements in the quality and consistency of health and social care services through the integration of health and social care in Scotland.

Scottish Government has released draft Regulations (in two Sets) to support the Public Bodies (Joint Working) (Scotland) Act 2014 and is now consulting with stakeholders about these. The consultation period for Set I of the draft Regulations is from 12 May to 1 August 2014. The consultation for Set 2 of the draft Regulations is 27 May to 18 August 2014.

The council response to the consultation is subject of a separate report to the Corporate Policy and Strategy on the agenda.

A summary of the Regulations is given at Appendix 1.

Links

Coalition pledges	P12 and P43
Council outcomes	CO10, CO11, CO12, CO13,Co14, Co15
Single Outcome Agreement	SO2

Report

Summary of the Draft Regulations to Support the Public Bodies (Joint Working) (Scotland) Act 2014

Recommendations

1.1 Note the summary of the draft Regulations.

1.2 Note that the Council response to the consultation on the draft Regulations is the subject of a separate report on the agenda. With Scottish Government agreement, the approved response to Set 1 will be submitted on 6 August 2014. The response to Set 2 will be submitted on 18 August 2014.

Background

2.1 The Public Bodies (Joint Working) (Scotland) Bill was passed on 25 February 2014 and became an Act when it received Royal Assent on 1 April 2014.

2.2 The Public Bodies (Joint Working) (Scotland) Act 2014 provides a framework to support improvements in the quality and consistency of health and social care services through the integration of health and social care in Scotland.

2.3 The Scottish Government has undertaken to draft and consult on detailed draft Regulations, which will underpin the Act, during summer 2004. A summary of the draft Regulations is provided in Appendix 1.

2.4 The first set of draft Regulations in support of the Act was issued on 12 May 2014 with a twelve week consultation period until 1 August 2014. The second set of draft Regulations was issued on 18 May 2014, also with a twelve week consultation period, until 18 August 2014.

Main report

3.1 The content of Set One of the Regulations is as follows:-

- Proposals for prescribed information to be included in the Integration scheme;
- Proposals on the prescribed functions which must be delegated by Local Authorities;
- Proposals for Regulations prescribing functions that may or that must be delegated by a Health Board;
- Proposals for National Health and Wellbeing outcomes;

- Proposals for interpretation of what is meant by the terms health and social care professionals; and
- Prescribed functions conferred on a Local Authority Officer.

Further details are given in Appendix 1.

3.2 The contents of Set Two of the Regulations is as follows:-

- Prescribed groups which must be consulted when preparing or revising Integration Schemes;
- Memberships, powers and proceedings of Integration Joint Boards;
- Establishment, membership and proceedings of Integration Joint Monitoring Committees;
- Prescribed membership of strategic planning groups; and
- Prescribed form and contents of performance reports.

Further details are given in Appendix 1.

3.3 A separate report on the agenda provides the Council's proposed response to the draft Regulations. Immediate points to note in the Regulations include:-

- Scope of services - Clarity is required about what services are included in the function 'Housing Support Services' delegated by the local authority to the Integration Authority (Set 1, Annex 2A).
- Scope of Services – delegation of Acute Services from the Health Board to the Integration Authority, while recognising that this will pose a challenge for NHS Lothian, is to be welcomed (Set 1, Annex 2A).
- The councillor membership of the Integrated Joint Board is currently 7 in the shadow arrangements, however, in the formal arrangements the Councillor membership is to be a maximum of 10% of the full Council number so that would be 6 Councillors (Set 2, Annex 2A).

3.4 It has been agreed with Scottish Government that a draft response to Set 1 will be submitted by 1 August subject to approval by Corporate Policy and Strategy Committee on 5 August. The final Council response to Set 1 will be submitted to Scottish Government on 6 August 2014. The response to Set 2 will be submitted to Scottish Government on 18 August 2014.

Measures of success

4.1 The Scottish Government has issued draft National Outcomes for the delivery of integrated Health and Social Care as part of the Set 1 Regulations.

4.2 The Strategic (Commissioning) Plan work stream is tasked with planning for the delivery of these outcomes for the services in scope. The Programme Sub Group on Performance and Quality is tasked with establishing local outcomes for measuring the success of the new Health and Social Care Partnership in relation to the national outcomes. A joint baseline has been developed and work is continuing on a joint framework for the future.

Financial impact

5.1 It is estimated that the new Health and Social Care Partnership will encompass a combined budget of around £4-500 million but will be dependent on the final scope of services to be delegated. This brings together existing budgets from the Health and Social Care Service in the Council as well as those from NHS Lothian's Community Health Partnership. These budgets will be delegated to the Integration Joint Board for governance, planning and resourcing purposes. The Strategic (Commissioning) Plan will identify how the resources are to be spent to deliver on the national outcomes and how the balance of care will be shifted from institutional to community-based settings.

Risk, policy, compliance and governance impact

6.1 A detailed risk log is maintained for the integration programme and reported through the status reporting process to the Shadow Health and Social Care Partnership and through the CPO Major Projects reporting procedure.

6.2 Enterprise level risks for integration are also identified on Corporate Management Team, Health and Social Care and NHS Lothian risk registers.

Equalities impact

7.1 The integration of health and social care services aims to overcome some of the current 'disconnects' within and between existing health and social care services for adults, to improve pathways of care, and to improve outcomes.

7.2 Furthermore, the intention is to improve access to the most appropriate health treatments and care. This is in line with the human right to health.

7.3 Work is in progress to develop a combined EqHRIA procedure between NHS Lothian and Health and social Care Services. This will be used for all EqHR impact assessments as required across the joint service once the Integrated Joint Board is fully established.

Sustainability impact

8.1 The proposals in this report will help achieve a sustainable Edinburgh because:

- joint health and social care resources will be used more effectively to meet and manage the demand for health and care services
- they will promote personal wellbeing of older people and other adults in needs of health and social care services; and
- they will promote social inclusion of and care for a range of vulnerable individuals.

Consultation and engagement

9.1 Consultation and engagement form a key work stream in the programme. A number of events have taken place and mechanisms are being established to ensure the Shadow Health and Social Care Partnership is engaging at all levels. This includes the recruitment of service users and carers as members of the Shadow Health and Social Care Partnership with the express purpose of bring their own perspective to the discussions.

9.2 A comprehensive engagement programme is also underway to engage with a range of staff and practitioners across health and social care services, including the Professional Advisory Committee (whose Chair and Vice Chair are voting members of the Partnership). Finally, the Strategic Commissioning Plan process will adopt a co-production approach to developments to ensure timely and productive engagement with key stakeholders.

Background reading / external references

Draft Regulations Relating to Public Bodies (Joint Working) (Scotland) Act 2014 Set 1.

Draft Regulations Relating to Public Bodies (Joint Working) (Scotland) Act 2014 Set 2.

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Links

Coalition pledges	Ensuring Edinburgh and its residents are well cared for.
Council outcomes	Health and Wellbeing are improved in Edinburgh and there is high quality of care and protection for those who need it.
Single Outcome Agreement	Edinburgh's citizens experience improved health and wellbeing, with reduced inequalities in health.
Appendices	Appendix 1 Summary of the Draft Regulations Relating to Public Bodies (Joint Working) (Scotland) Act 2014

Appendix 1

Summary Extract of Set 1 of the Draft Regulations

Annex 1 – Proposals for information that must be included in the Integration scheme:-

- The agreed operating model

- Local governance arrangements for the integration joint board:
  - The number of members that will be appointed by the local authority, and the Health Board
  - Whether the first chairperson of the Board will be a member appointed by the local authority or the Health Board. The arrangements for the appointment of the Chair and Vice chair and the chair's term of office.

- Local governance arrangements for the integration joint monitoring committee:
  - The number of members that will be appointed by the local authority, and the health board.
  - Where the committee will comprise members in addition to those required by Order, a description of the particular role held by the additional member, or as the case may be the group to be represented by each additional member.
  - The arrangements for the provision of financial support and the arrangements for financing the committee.

- Local operational delivery arrangements for the functions delegated to an integration joint board
  - Information on the governance arrangements for the carrying out of integrated functions, particulary arrangements made for the involvement of members of the Integration joint Board in overseeing the carrying out of integration functions by the constituent authorities.

- Performance targets, improvement measures and reporting arrangements which relate to integration functions, and those which do not relate to integration functions
  - The process to be used to identify which will transfer and the extent of that responsibility, in full or in part, to the integration authority, and those which will not .
  - The process to be used to identify those which must be taken into account by the integration authority when it is preparing the strategic plan but which relate to functions not delegated.

- Clinical and Care Governance : information on
  - The arrangements of clinical governance and care governance which apply to integrated functions.
  - how these arrangements will

- provide oversight of, and advice to, the integrated authority, the strategic planning group, delivery of health and social care services in the localities identified in the strategic plan, in relation to clinical and care governance
- the relationship between the clinical and care governance arrangements of the local authority and the Health board, and those for the integration functions.
- the role of senior professional staff of the Health Board and the local authority in the clinical and care governance arrangements for integrated functions.
- how the clinical and care governance set out in the Scheme relate to the arrangements for the involvement of professional advisors in the integration joint board.

➢ <u>Operational role of and line management arrangements for the Chief Officer</u>

- 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.
- A description of the line management which will be put in place by the constituent authorities, to ensure the chief officer is accountable to each of them.

➢ <u>Plan for workforce development</u>

- A list of plans that the health board and local authority will develop and put in place to support staff providing integration functions including at least - a development and support plan for staff and a plan relating to the organisational development of the Health Board, local authority and integration joint board.

➢ <u>Transfer of staff – number as appropriate</u>

➢ <u>Financial management of an integration joint board</u>

- which constituent authority will maintain/host financial ledgers for the purpose of recording the transaction of the integration joint board.
- The agreed arrangements for the preparation of annual accounts, the financial statement for the strategic plan, and such financial reports as are required.
- Payments to the Integrated Joint Board and the process used to schedule the amounts and dates of payments to be made to the integration joint board by the constituent authorities for each financial year.
- The frequency and agreed content of financial monitoring reporting to the integrated joint board and chief officer by the constituent authorities.
- Payments processes for addressing variances to manage in-year or year-end under/overspend, to manage set aside amounts spend, and to determine the use of capital assets of the local authority.

➢ <u>Participation and engagement</u>

- The list of people and groups consulted in the development of the integration scheme, and detail of how the consultation was undertaken
- The process for developing a strategy for engagement with members of the public, representative groups, or other organisations by the Health Board, the local authority and integration authority.

- Information sharing and data handling
  - An information sharing accord, and the processes and procedures which will be adhered in connection with the local authority and Health Board functions and the integrated functions.

- Complaints handling
  - The arrangements for managing complaints and the process by which a service user may make a complaint.

- Claims handling and indemnity – the arrangements and settlement of claims, and any arrangements made for indemnity.

- Risk Management
  - Information on the risk management strategy, which will be applied in carrying out integration functions, how the risk management procedure will be developed, support on risk management to be made available by the local authority and Health Board.
  - How the constituent authorities will produce a list of risks to be reported under the Risk Management Strategy including provision for it to be amended.

- Dispute Resolution
  - The procedure used to resolve any dispute between the local authority and the Health Board regarding the integration Scheme or any of the duties or powers placed upon them by the Act.

Annex 2 – Proposals on the prescribed functions that must be delegated by Local Authorities.

The draft Regulations include those functions listed in the Schedule of the Act as they relate to the following services for adults:-

- Social Work Services for adults and older people;
- Services and support for adults with physical disabilities, learning disabilities;
- Mental health services;
- Drug and alcohol services;
- Adult protection and domestic abuse;
- Carers support services;
- Community care assessment teams;
- Support services;
- Adult placement services;
- Health improvement services;
- Housing support services, aids and adaptations;
- Day Services;
- Local area co-ordination;
- Respite provision;
- Occupational therapy services;
- Re-ablement services, equipment and telecare.

Appendix 1

Annex 3 – Proposals for Regulations prescribing functions that may or must be delegated by a Health Board.

These regulations set out that a Health Board **must** delegate all of its functions as they relate to adult primary and community health services, along with a proportion of hospital sector provision.. All services already within the scope of CHP arrangements must be delegated to Integration Authorities.

Healthcare functions are defined very broadly under the legislation, therefore, the regulations specify which healthcare services are included within an integrated arrangement, as listed below :-

- Unplanned Inpatients Services
- Outpatients - Accident and Emergency Services
- Care of Older People Services (previously known as geriatric medicine)
- District Nursing Services
- Health Visiting Services
- Clinical Psychology Services
- Community Health Partnership Services
- Addiction Services
- Women's Health Services (including family planning services)
- Allied Health Professionals Services
- GP Out of Hours Services
- Public Health Dental Services (previously known as community dental services)
- Continence Services
- Home Dialysis Services
- Health Promotion Services
- General Medical Services (GMS)
- Pharmaceutical services – GP prescribing

It is noted that some functions on the4 must list cannot yet be included for practical reasons but that as more information becomes available over time the expectation is that they must be delegated.

Healthcare functions in the "may" category include any adult services that do not fall within the "must" category, and children's healthcare services (in each case, with the proviso that the service in question is not precluded from the integrated arrangement by the regulations).

Health care services that may not be delegated include provision of regional and national health services, education and research facilities and some specific duties, e.g. registration of health professionals.

Annex 4 – Proposals for National Health and Wellbeing Outcomes

The nine draft National Health and Wellbeing Outcomes, including a description of each outcome, is as follows:-

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

Outcome 2: People including those with disabilities, long term conditions, or who are frail, are able to live, as far as reasonable practicable, independently and at home or in a homely setting in their community.

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

Outcome 4: Health and Social Care Services are centred on helping to maintain or improve the quality of life of service users.

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

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

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

Outcome 8: People who work in health and social care services are supported to continuously improve the information, support, care and treatment they provide and feel engaged with the work they do.

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

Annex 5 - Proposals for interpretation of what is meant by the terms health and social care professionals.

The regulations describe what is meant by the terms ‘health professionals’ and ‘social care professionals’ and to whom they refer. People or groups of people not mentioned within these Regulations will not be considered as ‘health professionals’ or ‘social care professionals’ in relation to the Act or the Regulation created under the Act.

The professions covered by the prescribed bodies are detailed below:-

Health Professionals	***General Chiropractic Council*** Chiropractors ***General Dental Council (GDC)*** Dentists, dental nurses, dental technicians clinical dental technicians, dental hygienists, dental therapists ***General Medical Council*** Doctors ***General Optical Council*** Optometrists, dispensing opticians, student opticians and optical businesses ***General Osteopathic Council*** Osteopaths ***Health and Care Professions Council (HCPC)*** Arts therapists, biomedical scientists, chiropodists / podiatrists, clinical scientists, dieticians, hearing aid dispensers, occupational therapists, operating department practitioners, orthoptists, paramedics, physiotherapists, practitioner psychologists, prosthetists /orthotists, radiographers, and speech and language therapists (*and social workers in England)* ***General Pharmaceutical Council (GPhC)*** Pharmacists and pharmacy technicians ***Nursing and Midwifery Council*** Nurses and Midwives

Social Care Professionals	***Scottish Social Service Council*** • Social workers, • Social work students, • SCSWIS Authorised Officers • Managers, workers with supervisory responsibilities and residential child care workers in residential childcare services • Managers in adult day care services • Managers, workers with supervisory responsibilities, practitioners and support workers responsible for care homes services for adults • Managers, practitioners and support workers responsible for day care of children services • Managers, supervisors and house staff within school hostels, residential special schools and independent boarding schools • Managers supervisors and workers responsible for housing support services • Managers supervisors and workers responsible for care at home services Other Social Care Professionals who are not regulated by the Scottish Social Services Council but provide care or support to users of social care services.

Annex 6 – Prescribed functions conferred on a Local Authority Officer.

These are the functions conferred on a council officer by or by virtue of sections 7,8,9,10,11,14,16 and 18 of the Adult Support and Protection t(Scotland) Act 2007.

The effect of this regulation is that a person who is a officer of the health board or any other local authority with which a local authority has made joint working arrangements under the 2014 Act may exercise those functions in respect of the area of that local authority providing that the officer meets the requirements specified in Article 3, or as the case may be, article 4 of the Adult Support and Protection (Scotland) Act 2007 (Restriction on the Authorisation of Council Officers) Order 2008b).

Summary Extract of Set 2 of the Draft Regulations

Annex 1 – Prescribed groups which must be consulted when preparing or revising Integration Schemes, preparing draft strategic plans, and when making decisions affecting localities relating to the 2014 Act.

The List of standard Consultees is:-

- Health Professionals
- Users of health care
- Carers of users of health care
- Non commercial providers of health care
- Social Care professionals
- Users of Social Care
- Carers of users of social care
- Commercial providers of social care
- Non-commercial providers of social care
- Non commercial providers of social housing
- Third sector bodies carrying out activities related to health or social care

➢ Prescribed groups which must be consulted when preparing Integration Schemes and when they are revised:

- The standard consultees;
- Staff of the Local Authority likely to be affected by the Integration Scheme;
- Staff of the Health Board likely to be affected by the Integration Scheme; and
- Other Local Authorities operating within the area of the Health Board preparing the Integration Scheme.
- Any other persons that the Local Authority and Health Board think fit.

➢ Prescribed consultees for draft strategic plans:-

- The standard consultees;
- Any other persons that the Local Authority and Health Board think fit.

➢ Prescribed Consultees for Locality Planning:-

- The standard consultees;
- Staff of the Local Authority;
- Staff of the Health Board;
- Residents of the locality.

Annex 2 - Memberships, powers and proceedings of Integration Joint Boards An Integration joint Board must include the following members:-

- The Local Authority and the Health Board must agree on the numbers of representatives to sit on the Integration Board and must nominate the same number;
- A minimum of three each is required, however the Local Authority can require that the number of nominees is to be a maximum of 10% of their full council number;
- The Local Authority will nominate Councillors;
- The Health Board will primarily nominate non-executive directors, and there must be a minimum of two, other appropriate people, who must be members of the Health Board, can be nominated where there are not enough non-executive directors to fill all the places;
- the chief social work officer of the local authority (non voting member);
- a registered health professional employed by, and chosen by, the Health Board (non voting member);
- the chief officer of the integration joint board (non voting member);
- a staff side representative (non voting member);
- a third sector representative (includes non-commercial providers of health or social care, representative groups, interest groups, social enterprises and community organisation) (non voting member);
- a carer representative (non voting member);
- a service user (non voting member);
- Any other members may be appointed, as required, by the Integration Joint Board

➢ Appointment of chairperson and vice-chairperson where the integration scheme is prepared by one local authority:

- The constituent authorities must agree the time period, not exceeding three years, for which an authority is to be entitled to appoint the chairperson and which of them is to appoint the chairperson in the first appointing period. Alternating which is to appoint in each successive appointing period.
- The constituent authority which is not entitled to appoint the chairperson in respect of an appointing period must appoint the vice-chairperson of the integration joint board in respect of that period.
- A constituent authority may change the person appointed as chairperson or vice-chairperson during an appointing period.
- The local authority may only appoint as chairperson or vice-chairperson a member of the integration joint board nominated by it.
- The Health Board may only appoint as chairperson or vice-chairperson a member of the integration joint board nominated by it who is a non-executive director of the Health Board.
- The chair person has casting vote.

➢ Standing Orders

- An integration joint board must make, and may amend, standing orders for the regulation of its procedure and business.

Appendix1

Annex 3 - Establishment, membership and proceedings of Integration Joint monitoring committees.

- <u>Membership of the Integration Joint Monitoring Committee - minimum</u>
  - Three councillors nominated by the Local Authority;
  - Three persons nominated by the Health Board (at least two non-executive directors and another member of the Health Board);
  - The Chief Social Work Officer of the Local Authority;
  - A registered health professional employed and nominated by the Health Board;
  - Health Board Director of Finance (where the Integration Authority is the Health Board) or the Local Authority Section 95 Officer (where the Integration Authority is the Local Authority);
  - Staff-side representative from the Health Board (where the Integration Authority is the Health Board) or a staff-side representative from the Local Authority (where the Integration Authority is the Local Authority);
  - Third Sector representative;
  - Service user representative; and
  - Carer representative.
  - The integration joint monitoring committee may appoint any other members as it sees fit.
  - The appointment of the Chairperson will be jointly agreed between the Local Authority and the Health Board.

- <u>Standing Orders</u>

- An integration joint monitoring committee must make, and may amend, standing orders for the regulation of its procedure and business, and all meetings of the integration joint board or of a committee of the joint of the integration joint board shall be conducted in accordance with them.

Appendix1

Annex 4 - Prescribed membership of Strategic Planning Group.

The following people or groups of people within the Local Authority area must be represented by an individual on the strategic planning group:-

- Health professional
- Users of health care
- Cares of users of health care
- Commercial providers of health care
- Non commercial providers of health care
- Social care professionals
- Users of social care
- Carers or users of social care
- Commercial providers of social care
- Non commercial providers of social care
- Non commercial providers of social housing
- Third sector bodies carrying out activities related to health or social care.

Appendix1

Annex 5 - Prescribed form and contents of performance reports.

The draft regulations require that Integration Authorities report on:-

- Progress to deliver the national health and wellbeing outcomes;
- Information on performance against key indicators or measures;
- How the strategic planning and locality arrangements have contributed to delivering services that reflect the integration principles;
- The details on any review of the strategic plan within the reporting year;
- Any major decisions taken outwith the normal strategic planning mechanisms;
- An overview of financial performance of the Integration Authority including any underspend or overspend
- The extent to which Integration Authorities have moved resources from institutional to community based care and support, by reference to changes in the proportion of the budget spent on each type of care and support.
- These elements to be reported upon each year, and where applicable, each annual report to include a comparison with at least the five preceding years.