

Draft Regulations and Orders Relating to Public Bodies (Joint Working) (Scotland) Act 2014 – Set 2



**The Scottish
Government**
Riaghaltas na h-Alba

DRAFT REGULATIONS AND ORDERS RELATING TO PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014 – SET 2

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DRAFT REGULATIONS AND ORDERS RELATING TO PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014 – SET 2

Executive Summary

On 1 April 2014 the Public Bodies (Joint Working) (Scotland) Act 2014 received Royal Assent.

The Act provides for Scottish Ministers to put in place a number of Regulations and Orders, and during its passage through Parliament, Scottish Ministers committed to consult widely on these.

Draft Scottish Statutory Instruments to accompany the Public Bodies (Joint Working) (Scotland) Act 2014 have been developed in collaboration with stakeholders and are being published for consultation in two sets.

Consultation on the first set of draft Regulations commenced on 12 May 2014 and is running for twelve weeks until 1 August 2014. Consultation on the second set of draft Regulations and Orders will run for twelve weeks from 27 May 2014 – 18 August 2014 and covers draft Regulations and Orders relating to:

- Prescribed groups which must be consulted when preparing or revising Integration Schemes; preparing draft strategic plans; and when making decisions affecting localities
Section 6(2)(a), Section 33(6), Section 41(4), Section 46(4)(a) of the Public Bodies (Joint Working) (Scotland) Act 2014
- Membership, powers and proceedings of Integration Joint Boards
Section 12(1) of the Public Bodies (Joint Working) (Scotland) Act 2014
- Establishment, membership and proceedings of integration joint monitoring committees
Section 17(1) of the Public Bodies (Joint Working) (Scotland) Act 2014
- Prescribed membership of strategic planning groups
Section 32(2) of the Public Bodies (Joint Working) (Scotland) Act 2014
- Prescribed form and content of performance reports
Section 42(3) of the Public Bodies (Joint Working) (Scotland) Act 2014

Set one contained draft Regulations relating to:

- Prescribed information to be included in the Integration Scheme
Section 1(3)(f) of the Public Bodies (Joint Working) (Scotland) Act 2014
- Prescribed functions that must be delegated by Local Authorities
Section 1(7) of the Public Bodies (Joint Working) (Scotland) Act 2014
- Prescribed functions that may or that must be delegated by a Health Board
Section 1(6) & 1(8) of the Public Bodies (Joint Working) (Scotland) Act 2014

- Prescribed National Health and Wellbeing Outcomes
Section 5(1) of the Public Bodies (Joint Working) (Scotland) Act 2014
- Interpretation of what is meant by the terms health and social care professionals
Section 69(1) of the Public Bodies (Joint Working) (Scotland) Act 2014
- Prescribed functions conferred on a Local Authority officer
Section 23(1) of the Public Bodies (Joint Working) (Scotland) Act 2014

This consultation paper:

- Contains the second set of draft Regulations and Orders to accompany the Public Bodies (Joint Working) (Scotland) Act 2014;
- Outlines the policy rationale behind each draft instrument; and
- Outlines key consultation questions upon which the Scottish Government would like to hear your views.

Following the completion of the consultation, an analysis of written responses will be published. Scottish Ministers and officials will continue to work collaboratively with key stakeholders to consider the consultation responses. Consequently, the Regulations and Orders may be amended after this consultation. The final versions of each instrument will be laid before Parliament from late September 2014, before coming into force by the end of 2014.

DRAFT REGULATIONS AND ORDERS RELATING TO PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014 – SET 2

Public consultation on the second set of draft Regulations and Orders to accompany the Public Bodies (Joint Working) (Scotland) Act 2014

Consultation Paper

Introduction

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.

The policy rationale for integrating health and social care services is: to improve the quality and consistency of services for patients, carers, service users and their families; to provide seamless, joined up, quality health and social care services in order to care for people in their homes, or a homely setting, where it is safe to do so; and to ensure resources are used effectively and efficiently to deliver services that meet the increasing number of people with longer term and often complex needs, many of whom are older.

Set 2 of the draft Regulations and Orders relating to the Public Bodies (Joint Working) (Scotland) Act 2014 are contained within this consultation. Their purposes are:

- 1. Prescribed groups which must be consulted when preparing Integration Schemes,**
Section 6(2)(a) of the Public Bodies (Joint Working) (Scotland) Act 2014

Prescribed groups, a representative of which must be sent a copy of the second draft strategic plan and invited to give views,
Section 33(6) of the Public Bodies (Joint Working) (Scotland) Act 2014

Prescribed groups who must be consulted on decisions which significantly affect a locality,
Section 41(4) of the Public Bodies (Joint Working) (Scotland) Act 2014

Prescribed groups of persons who must be consulted when revising Integration Schemes,
Section 46(4)(a) of the Public Bodies (Joint Working) (Scotland) Act 2014

These Regulations prescribe who must be consulted:

- When preparing Integration Schemes;
- In the development of the strategic plan;
- For locality planning; and
- When revising Integration Schemes.

2. Membership, powers and proceedings of Integration Joint Boards ,
Section 12(1) of the Public Bodies (Joint Working) (Scotland) Act 2014

The Public Bodies (Joint Working) (Scotland) Act 2014 requires Health Boards and Local Authorities to agree one of four models of integration. One of these models, set out in section 1(4)(a) of the Act, is described as 'body corporate' and allows the delegation of functions and budgets from the Health Board and Local Authority to a newly established Integration Joint Board.

This draft Order makes provision as to how an Integration Joint Board established under the Public Bodies (Joint Working) (Scotland) Act 2014 is to operate. This includes , who is required to be included in the membership of the board, which members may vote, and other procedures relating to the operation of the board. The Order also makes provision allowing Integration Joint Boards to enter into agreements or contracts which are necessary for them to carry out their duties under the Act. For example, contracts to enable the Integration Joint Board to receive professional advice such as legal or accounting, or when making arrangements in relation to premises, equipment and staff.

Section 12(1) of the Act provides for Scottish Ministers to make provision about the membership, proceedings and powers of Integration Joint Boards; the supply of services or facilities to Integration Joint Boards by a Local Authority or Health Board; the establishment of committees by Integration Joint Boards; the operation of committees of Integration Joint Boards; and the delegation of functions conferred upon Integration Joint Boards by an Integration Scheme to the chief officer, any member of its staff or any committee.

3. Establishment, membership and proceedings of joint monitoring committees,
Section 17(1) of the Public Bodies (Joint Working) (Scotland) Act 2014.

The Public Bodies (Joint Working) (Scotland) Act 2014 requires Health Boards and Local Authorities to agree one of four models of integration. Three of these models are described as 'lead agency' and allows the delegation of functions and budgets between the Health Board and Local Authority. Section 1(4)(b)(c)(d) of the Act sets out these three models of delegation as follows:

- The Health Board may delegate functions and resources to the Local Authority;
- The Local Authority may delegate functions and resources to the Health Board; or
- The Health Board and the Local Authority may delegate functions to each other.

Section 15(3) of the Act provides that where the Health Board and the Local Authority agree to use one of these models of integration, they are required to jointly establish an integration joint monitoring committee for the purpose of

monitoring the carrying out of the integration functions for the Integration Authority area.

This draft Order covers the matters that Scottish Ministers intend to prescribe relating to the operation of integration joint monitoring committees. It includes provisions about the following matters:

- Membership
- Term of office of members
- Membership where Integration Scheme is prepared by two or more Local Authorities
- Appointment of the Chairperson
- Disqualification
- Resignation of Members
- Removal of Members
- Replacement of Members
- Expenses of Members
- Proceedings/Standing Orders

4. Prescribed membership of strategic planning group

Section 32(2) of the Public Bodies (Joint Working) (Scotland) Act 2014

The Public Bodies (Joint Working) (Scotland) Act 2014 requires each Integration Authority to establish a strategic planning group. Under the Act, the strategic planning group must be consulted during the preparation, review and amendment of the strategic plan.

These draft Regulations prescribe the people that must be represented on the group. The group should comprise health and social care professionals, third and independent sector providers, service users and carers, representative groups and housing providers.

5. Prescribed form and content of performance report

Section 42(3) of the Public Bodies (Joint Working) (Scotland) Act 2014

Integration Authorities will have responsibility for the planning and resourcing of a significant proportion of health and social care services within Scotland. It is important that the Integration Authority reports and accounts for their activities so that the public are able to assess the progress made to improve outcomes by the Integration Authority that serves them. Section 42(1) of the Public Bodies (Joint Working) (Scotland) Act 2014 requires that each Integration Authority prepare an annual performance report.

Section 42(3) of the Public Bodies (Joint Working) (Scotland) Act 2014 gives Scottish Ministers the power to make Regulations that prescribe the form and content of performance reports.

The draft Regulations include provisions requiring the performance report to contain information about the following matters:

- Progress against the national health and wellbeing outcomes;
- Progress against a suite of key measures and indicators;

- Progress against the integration delivery principles with particular reference to strategic and locality planning;
- An overview of the integrated budget and the proportional changes within it;
- The flexibility to allow reporting on local outcomes and priorities.

And, where a lead agency model of integration is used:

- Details of any recommendations and associated responses from and to the integration joint monitoring committee.

Responding To This Consultation Paper

We are inviting written responses to this consultation paper by **Monday 18 August 2014**. Please send your response with the completed **Respondent Information Form** (replicated in Annexes 1C, 2C, 3C, 4C, 5C) (see "Handling your Response" below) to:

Email to: Alison.beckett@scotland.gsi.gov.uk

Or

Alison Beckett
Scottish Government
Area 2 E.R.
St. Andrews House
Regent Road
Edinburgh
EH1 3DG

If you have any queries please contact Alison Beckett on 0131 244 4824.

We would be grateful if you would use the consultation questionnaires provided or could clearly indicate in your response which questions or parts of the consultation paper you are responding to as this will aid our analysis of the responses received. This consultation, and all other Scottish Government consultation exercises, can be viewed online on the consultation web pages of the Scottish Government website at <http://www.scotland.gov.uk/consultations>.

The Scottish Government has an email alert system for consultations: <http://register.scotland.gov.uk>. This system allows stakeholder individuals and organisations to register and receive a weekly email containing details of all new consultations (including web links). It complements, but in no way replaces, Scottish Government distribution lists, and is designed to allow stakeholders to keep up to date with all Scottish Government consultation activity, and therefore be alerted at the earliest opportunity to those of most interest. We would encourage you to register.

Handling your response

We need to know how you wish your response to be handled and, in particular, whether you are happy for your response to be made public. Please complete and return the **Respondent Information Form** (replicated in Annexes 1C, 2C, 3C, 4C, 5C) as this will ensure that we treat your response appropriately. If you ask for your response not to be published we will regard it as confidential, and we will treat it accordingly. All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

Next steps in the process

Where respondents have given permission for their response to be made public and after we have checked that they contain no potentially defamatory material, responses will be made available to the public in the Scottish Government Library (see the attached Respondent Information Form, which is replicated in Annexes 1C, 2C, 3C, 4C, 5C) and on the Scottish Government consultation web pages. You can make arrangements to view responses by contacting the Scottish Government Library on 0131 244 4552. Responses can be copied and sent to you, but a charge may be made for this service.

What happens next?

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us reach a decision on the draft Regulations relating to the Public Bodies (Joint Working) (Scotland) Act 2014. We aim to issue a report on this consultation process and we will lay Regulations and Orders in the Scottish Parliament from late September.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to Alison Beckett in the first instance at the above address.

Yours faithfully

ALISON BECKETT
Scottish Government
Integrating and Reshaping Care Division

The Scottish Government Consultation Process

Consultation is an essential and important aspect of Scottish Government working methods. Given the wide-ranging areas of work of the Scottish Government, there are many varied types of consultation. However, in general, Scottish Government consultation exercises aim to provide opportunities for all those who wish to express their opinions on a proposed area of work to do so in ways which will inform and enhance that work.

The Scottish Government encourages consultation that is thorough, effective and appropriate to the issue under consideration and the nature of the target audience. Consultation exercises take account of a wide range of factors, and no two exercises are likely to be the same.

Typically Scottish Government consultations involve a written paper inviting answers to specific questions or more general views about the material presented. Written papers are distributed to organisations and individuals with an interest in the issue, and they are also placed on the Scottish Government website enabling a wider audience to access the paper and submit their responses. Consultation exercises may also involve seeking views in a number of different ways, such as through public meetings, focus groups or questionnaire exercises. Copies of all the written responses received to a consultation exercise (except those where the individual or organisation requested confidentiality) are placed in the Scottish Government Library at Saughton House, Edinburgh (K Spur, Saughton House, Broomhouse Drive, Edinburgh, EH11 3XD, telephone 0131 244 4565).

All Scottish Government consultation papers and related publications (eg, analysis of response reports) can be accessed at: Scottish Government consultations (<http://www.scotland.gov.uk/consultations>).

The views and suggestions detailed in consultation responses are analysed and used as part of the decision making process, along with a range of other available information and evidence. Depending on the nature of the consultation exercise the responses received may:

- Indicate the need for policy development or review
- Inform the development of a particular policy
- Help decisions to be made between alternative policy proposals
- Be used to finalise legislation before it is implemented.

Final decisions on the issues under consideration will also take account of a range of other factors, including other available information and research evidence.

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

ANNEX 1(A)

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 PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

CONSULTATION PAPER

These draft Regulations prescribe the groups that must be consulted when preparing or revising Integration Schemes, drafting strategic plans, and making significant decisions in localities. Each is explained in more detail below.

Prescribed groups which must be consulted when preparing Integration Schemes

Section 6(2)(a) of the Public Bodies (Joint Working) (Scotland) Act 2014 requires Local Authorities and Health Boards to prepare an Integration Scheme.

Before submitting the Integration Scheme to Scottish Ministers for approval, the Local Authority and Health Boards must jointly consult the groups of persons prescribed in these draft Regulations. They must also consult with any other persons that they think fit.

The Local Authority and Health Board will be expected to allow the groups of persons prescribed in these draft Regulations to obtain access to the draft Integration Scheme in order for consultees to express their views.

The prescribed groups of persons includes the standard consultees outlined at the end of this annex and within the Schedule. In addition, it includes:

- 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.

Prescribed consultees for revised Integration Schemes

Section 46(4)(a) of the Public Bodies (Joint Working) (Scotland) Act 2014 requires Integration Authorities, when conducting a review of the Integration Scheme, to consult with groups of persons who are prescribed in these draft Regulations. They must also consult other persons as they think fit. The groups of persons prescribed are the same persons who must be consulted when the Integration Scheme is first prepared.

Prescribed consultees for draft strategic plans

Section 33 of the Public Bodies (Joint Working) (Scotland) Act 2014 requires the Integration Authority to prepare a strategic plan for the area of the Local Authority. A strategic plan is a document that sets out the arrangements for carrying out the integrated functions, and how these arrangements are intended to achieve the national health and wellbeing outcomes. Under section 33(4) of the Act, the Integration Authority must send a copy of the second draft of the strategic plan to a

person they consider to be representative of the groups of persons prescribed by Scottish Ministers. These draft Regulations prescribe those groups at regulation 4.

The groups of persons prescribed are the standard consultees outlined at the end of the annex and within the Schedule to the draft Regulations.

The Integration Authority must also send the strategic plan to any other person it considers appropriate. The Scottish Government would expect these other people to include, for example, any other Local Authorities, Health Boards or Integration Authorities likely to be affected by the strategic plan.

Prescribed Consultees for locality planning

Under section 41(3) of the Public Bodies (Joint Working) (Scotland) Act 2014, where an Integration Authority (or person carrying out an Integration Authority function) proposes to take a decision which might significantly affect the provision of services in a locality, they must take action to involve and secure the views of the groups of persons prescribed in these draft Regulations. The groups are prescribed at regulation 5.

In addition to the standard consultees outlined at the end of this annex and within the schedule, for locality planning purposes, the Integration Authority must consult with the following, where they are likely to have an interest in the decision:

- Staff of the Health Board;
- Staff of the Local Authority; and
- Residents of the locality.

List of Standard Consultees

- Health professionals;
- Users of health care;
- Carers of users of health care;
- Commercial providers 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; and
- Third sector bodies carrying out activities related to health or social care.

ANNEX 1(B)

**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
PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014**

Draft Regulations

2014 No.

HEALTH, SOCIAL CARE

**The Public Bodies (Joint Working) (Prescribed Consultees)
(Scotland) Regulations 2014**

Made - - - - - ***

Laid before the Scottish Parliament ***

Coming into force - - - ***

The Scottish Ministers make the following Regulations in exercise of the powers conferred on them by sections 6(2)(a), 33(6), 41(4), and 46(4)(a) of the Public Bodies (Joint Working) (Scotland) Act 2014(a) and all other powers enabling them to do so.

Citation, commencement and interpretation

1. These Regulations may be cited as The Public Bodies (Joint Working) (Prescribed Consultees) (Scotland) Regulations 2014 and come into force on [date].

2. In these Regulations—

“third sector” includes representative groups, interest groups, social enterprises and community organisations; and

“standard consultees” means the groups of persons listed in the Schedule.

Prescribed groups of persons to be consulted

3. The groups of persons prescribed for the purposes of sections 6(2)(a) and 46(4)(a) (consultation on integration scheme) are—

- (a) the standard consultees;
- (b) staff of the local authority likely to be affected by the integration scheme;
- (c) staff of the Health Board likely to be affected by the integration scheme; and
- (d) other local authorities operating within the area of the Health Board preparing the integration scheme.

4. The groups of persons prescribed for the purposes of section 33(6) (preparation of the strategic plan) are the standard consultees.

5. The groups of persons prescribed for the purposes of section 41(4) (localities) are—

- (a) the standard consultees;
- (b) staff of the Health Board;
- (c) staff of the local authority; and

(a) TBC

(d) residents of the locality,

but only insofar as they are likely to have an interest in the decision to which section 41(1) applies.

6. The persons, and groups of persons, prescribed by these regulations are only prescribed insofar as—

- (a) in the case of users of health care or social care, they reside within the local authority area;
- (b) in the cases of carers of users of health care or social care, they care for a person who resides within the local authority area; or
- (c) in any other case, they operate within the local authority area.

Name

A member of the Scottish Government

St Andrew's House,
Edinburgh
[Date]

SCHEDULE
Standard Consultees

Regulation 2

Health professionals

Users of health care

Carers of users of health care

Commercial providers 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

EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations prescribe persons and groups of persons for the purposes of sections 6(2)(a), 33(6), 41(4), and 46(4)(a) of the Public Bodies (Joint Working) (Scotland) Act 2014 ("the 2014 Act"). The effect of the Regulations is to provide for the groups of persons who must be consulted on integration plans; strategic plans; or significant decisions in a locality.

Regulation 2 of the Regulations introduces the Schedule. The Schedule lists 'standard consultees', being groups of persons who are prescribed in respect of each of the purposes covered by the Regulations.

Regulation 3 prescribes the persons and groups of persons who appear to the Scottish Ministers to have an interest for the purposes of sections 6(2)(a) and 33(6) of the 2014 Act. Under the 2014 Act, these groups of persons must be jointly consulted by a local authority and Health Board when preparing, or revising, an integration scheme.

Regulation 4 prescribes the groups of persons who appear to the Scottish Ministers to have an interest for the purposes of section 33(6) of the 2014 Act. Under the 2014 Act, a representative of each of those groups must be sent a copy of the second draft of the strategic plan and be invited to express their views (section 33(4)-(6)).

Regulation 5 prescribes the groups of persons who appear to the Scottish Ministers to have an interest for the purposes of section 41(4) of the 2014 Act. Under the 2014 Act, the integration authority must take action to secure that these groups are involved in, and consulted on, decisions which significantly affect the provision of services in a locality (section 41). The groups of persons are only prescribed insofar as they are likely to have an interest in the particular decision being taken.

The groups of persons prescribed by these Regulations are only prescribed insofar as they operate within the area of the local authority; use health or social care services within the local authority; or care for someone who uses such services.

ANNEX 1(C)



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 PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately. **If you are responding to more than one set of regulations at the same time, you only need to complete this form once.**

1. Name/Organisation

Organisation Name

West Dunbartonshire Community Health & Care Partnership

Title Mr ☒ Ms ☐ Mrs ☐ Miss ☐ Dr ☐ Please tick as appropriate

Surname

Sengupta

Forename

Soumen

2. Postal Address

West Dunbartonshire Community Health & Care Partnership,

West Dunbartonshire Council, Garshake Road, Dumbarton.

Postcode

G82 3PU

Phone

01389 737321

Email

soumen.soumen.sengupta@ggc.scot.nhs.uk

3. Permissions - I am responding as...

Individual

/ Group/Organisation

☐

Please tick as appropriate

☒

- (a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate

☐ Yes ☐ No

- (c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Are you content for your **response** to be made available?

Please tick as appropriate

☒ Yes ☐ No

Yes, make my response, name and address all available ☐

or

Yes, make my response available, but not my name and address ☐

or

Yes, make my response and name available, but not my address ☐

(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate

☒ Yes

☐ No

4. Additional information – I am responding as:

4. Local Authority	West Dunbartonshire Council
15. Other – please specify	Community Health & Care Partnership

ANNEX 1(D)

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 PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

CONSULTATION QUESTIONS

1. Do these draft Regulations include the right groups of people?

Yes

☒

No

☐

2. If no, what other groups should be included within the draft Regulations?

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

With respect to adult health and social care services question 2 above, it is difficult to conceive of an interest group or constituency that has not been given legitimacy within the draft regulations.

The new HSCPs need to be empowered to operate in a manner that is locally responsive and innovative, and not bogged-down in counter-productive and costly bureaucracy. So, for example, the requirement to establish a static strategic planning group is well intended but somewhat traditional and reductive given the volume of individuals who would have to be invited to attend meetings but who themselves are unlikely to (in practice) legitimately represent wider constituencies or communities of interest.

We would suggest that in keeping with the parallel legislation being progressed in respect of community empowerment/engagement (that the HSCP will be obliged to comply with in any case), it would be more constructive to emphasise the standard consultees (already articulated within the draft regulations) who the HSCP are obliged to engage with as part of strategic or locality planning – and it is for the Integrated Joint Board to hold the Chief Officer to account for how the HSCP does that within the context of local Community Planning arrangements.

ANNEX 2(A)

MEMBERSHIP, POWERS AND PROCEEDINGS OF INTEGRATION JOINT BOARDS ESTABLISHED UNDER THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

CONSULTATION PAPER

Section 12(1) of the Act provides for Scottish Ministers to make provision about the membership, proceedings and powers of Integration Joint Boards; the supply of services or facilities to Integration Joint Boards by a Local Authority or Health Board; the establishment of committees by Integration Joint Boards; the operation of committees of Integration Joint Boards and the delegation of functions conferred upon Integration Joint Boards by an Integration Scheme to the chief officer, any member of its staff or any committee.

The draft Order sets out the proposed membership, proceedings and arrangements for the Integration Joint Board. These include: the categories for membership and their participant lists; voting rights; chairperson and vice chairperson roles; contingency arrangements where there is a mismatch in voting arrangements; removal of voting members; multi-council arrangements; term of office; expenses; resignation and removal; disqualification; and, the creating of standing orders by the Integration Joint Board for the proceedings of the Integration Joint Board. Where it is necessary to do so, different provision is made for the case where the Integration Scheme has been prepared by the Health Board acting jointly with more than one Local Authority.

Membership:

The Order sets out two categories of membership for the Integration Joint Board. First, a category of voting members, made up of representatives nominated by the Health Board and Local Authority. Second, a category of non-voting advisory members, made up of a number of key prescribed representatives. The Order also provides for the Integration Joint Board to appoint such additional non-voting members as it sees fit.

The membership arrangements set out in the draft Order are intended to ensure parity in both membership and decision making for the Health Board and Local Authority. Therefore, it is proposed that:

- The Local Authority and the Health Board must nominate the same number of representatives to sit on the Integration Joint Board;
- The Health Board and the Local Authority must agree on the number of representatives that they will each nominate;
- The Health Board and Local Authority must put forward a minimum of three nominees each, however Local Authorities 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 to sit on the Integration Joint Board;
- The Health Board will primarily nominate non-executive directors to sit on the Integration Joint Board;
- A Health Board must have at least two non-executive directors on each of the Integration Joint Boards created within their geographical area;

- Where the Health Board is unable to fill all their places with non-executive directors they can then nominate other appropriate people, who must be members of the Health Board, to fill their spaces.

Scottish Ministers consider it appropriate for only the members nominated by the Health Board and the local authority to have a vote. The effect of this will be that the voting members are either democratically elected members of the Council or appointed by Scottish Ministers, via the Public Appointments system, to the Health Board and are therefore accountable by virtue of these robust and transparent mechanisms. This is not the case for other stakeholders. Therefore members who are appointed due to their professional role, or those representing other stakeholders, will not vote on decisions of the integration joint board.

The minimum non-voting advisory membership for each Integration Joint Board is:

- A registered health professional employed and nominated by the Health Board;
- Chief Social Work Officer;
- A staff-side representative;
- A third sector representative;
- A carer representative;
- A service user representative;
- Chief Officer.

In addition, other members may be appointed, as required, by the Integration Joint Board.

Chairperson and vice chairperson

The Health Board and the Local Authority, through the Integration Joint Board, have equal and joint responsibility for the delivery of integrated services. To ensure equality in voting, the voting members that the Health Board and Local Authority put forward will be equal in number. This could lead to a situation where the voting members are split evenly at a vote, causing a stalemate in the decision making.

To ensure that a stalemate cannot occur, the Chairperson and Vice Chairperson will be drawn from the Health Board and Local Authority voting members. If a Local Authority member is to serve as Chairperson, then the Vice Chairperson will be a member nominated by the Health Board and vice versa. To ensure that a stalemate cannot occur, the Chairperson will have a casting vote, in addition to their Integration Joint Board membership vote.

The appointment to Chairperson and Vice Chairperson is time-limited and carried out on a rotational basis. This will ensure equity in decision making over time. The Health Board and Local Authority have flexibility to determine how often the Chairperson and Vice Chairperson rotate, but they must rotate at least once every three years. At the end of the period determined by the Health Board and Local Authority, if a member nominated by the Local Authority has served as Chairperson, a member nominated by the Health Board will then be appointed to the Chair and vice versa.

Standing orders

This Order contains a Schedule, which sets out provisions which will require to be included in the standing orders prepared by each Integration Joint Board. These include provision in relation to calling meetings, notice of meetings, quorum, conduct of meetings, deputies, conflict of interest and records.

ANNEX 2(B)

MEMBERSHIP, POWERS AND PROCEEDINGS OF INTEGRATION JOINT BOARDS ESTABLISHED UNDER THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

Draft Order

2014 No.

HEALTH, SOCIAL CARE

**Public Bodies (Joint Working) (Proceedings, Membership and
General Powers of Integration Joint Boards) (Scotland) Order
2014**

Made - - - - - ***
Laid before the Scottish Parliament ***
Coming into force - - - - - *in accordance with article 1*

The Scottish Ministers make the following Order in exercise of the powers conferred on them by section 12 and 69(1) of the Public Bodies (Joint Working) (Scotland) Act 2014 (a) and all other powers enabling them to do so.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Public Bodies (Joint Working) (Proceedings, Membership and General Powers of Integration Joint Boards) (Scotland) Order 2014 and comes into force on *(tbc)*.

(2) In this Order—

“the Act” means the Public Bodies (Joint Working)(Scotland) Act 2014;

“chairperson” means the chairperson of the integration joint board for the time being appointed under article 4 or in accordance with arrangements made under article 6(b);

“service users” has the meaning provided by section 4(2) of the Act; and

“voting member” means a member appointed by virtue of article 3(1)(a), 3(1)(b), 5(1)(a) or 5(2)(b).

Application of this Order

2.—(1) Articles 3, 4 and 9 of this Order apply where the integration scheme is prepared under section 1(2) or 2(3) of the Act.

(2) Articles 5, 6 and 7 of this Order apply where an integration scheme is prepared under section 2(4) of the Act.

(3) Except as provided for by paragraphs (1) or (2), the provisions of this Order apply to all integration joint boards.

Membership where integration scheme prepared by one local authority

3.—(1) An integration joint board must include the following members—

(a) 2014 asp 9.

- (a) the number of councillors nominated by the local authority determined in accordance with paragraphs (3);
 - (b) the number of persons nominated by the Health Board determined in accordance with paragraph (3);
 - (c) the chief social work officer of the local authority;
 - (d) a registered health professional employed by, and chosen by, the Health Board;
 - (e) the chief officer of the integration joint board; and
 - (f) one person appointed by the integration joint board in respect of each of the groups described in paragraph (2).
- (2) The groups referred to in paragraph (1)(f) are:
- (a) staff of the constituent authorities engaged in the provision of services provided under integration functions;
 - (b) third sector bodies carrying out activities related to health or social care in the area of the local authority;
 - (c) service users residing in the area of the local authority; and
 - (d) persons providing unpaid care in the area of the local authority.
- (3) The number of persons to be nominated under article 3(1)(a) and (b) is—
- (a) three; or
 - (b) such number as the constituent authorities agree; or
 - (c) such number as the local authority specifies which does not exceed 10 per cent of the number of members of the local authority,
- whichever is the greatest.
- (4) Except where paragraph (5) applies, the members nominated by a Health Board under article 3(1)(b) must be non-executive directors of that Health Board.
- (5) If the Health Board is unable to nominate the number of non-executive directors determined in accordance with paragraph (3)—
- (a) it must nominate at least 2 non-executive directors; and
 - (b) the remainder of the persons nominated under article 3(1)(b) must be appropriate persons.
- (6) Subject to paragraph (7), the integration joint board may appoint such additional members as it sees fit.
- (7) An additional member appointed under paragraph (6) may not be a councillor or a non-executive director of the Health Board.
- (a) In this article,
 - “appropriate person” means a member of the Health Board, but does not include any person who is both a member of the Health Board and a councillor; and
 - “third sector bodies” includes non-commercial providers of health or social care, representative groups, interest groups, social enterprises and community organisations.

Appointment of chairperson and vice-chairperson where integration scheme prepared by one local authority

- 4.—(1) The constituent authorities must agree —
- (a) the period, not exceeding three years, for which an authority is to be entitled to appoint the chairperson (the “appointing period”); and
 - (b) which of them is to appoint the chairperson in the first appointing period.
- (2) The constituent authorities must alternate which of them is to appoint the chairperson in respect of each successive appointing period.

(3) 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.

(4) A constituent authority may change the person appointed as chairperson or vice-chairperson during an appointing period.

(5) The local authority may only appoint as chairperson or vice-chairperson a member of the integration joint board nominated by it in accordance with article 3(1)(a).

(6) The Health Board may only appoint as chairperson or vice-chairperson a member of the integration joint board nominated by it in accordance with article 3(1)(b) who is a non-executive director of the Health Board.

Membership where integration scheme prepared by two or more local authorities.

5.—(1) Subject to paragraph (2), where an integration scheme is prepared by a Health Board jointly with more than one local authority under section 2(4) of the 2014 Act, the membership of the integration joint board is to be such as the Health Board and local authorities agree.

(2) The membership of an integration joint board to which this article applies must include the following members:

- (a) if the scheme is prepared by two local authorities, two councillors nominated by each local authority or, if the scheme is prepared by more than two local authorities, one councillor nominated by each local authority;
- (b) a number of persons nominated by the Health Board which is equal to the number of councillors required to be nominated under (a);
- (c) the chief social work officer of one of the local authorities;
- (d) a registered health professional employed by, and chosen by, the Health Board,
- (e) the chief officer of the integration joint board; and
- (f) one member appointed by the integration joint board in respect of each of the groups described in paragraph (3).

(3) The groups referred to in paragraph (2)(f) are:

- (a) staff of the constituent authorities engaged in the provision of services provided under integration functions;
- (b) third sector bodies carrying out activities related to health and social care for the area of the local authority;
- (c) service users in the area of the local authority; and
- (d) persons providing unpaid care in the area of the local authority.

(4) Except where paragraph (5) applies, the members nominated by a Health Board under article 5(2)(b) must be non-executive directors of that Health Board.

(5) If the Health Board is unable to nominate the number of non-executive directors required under article 5(2)(b)—

- (a) it must nominate at least two non-executive directors; and
- (b) the remainder of the persons nominated under that article must be appropriate persons.

(6) In this article—

“appropriate person” means a member of the Health Board, but does not include any person who is both a member of the Health Board and a councillor; and

“third sector bodies” includes non-commercial providers of health and social care, representative groups, interest groups, social enterprises and community organisations.

Appointment of chairperson and vice-chairperson where integration scheme prepared by two or more local authorities

6.—(1) The constituent authorities must agree —

- (a) the period, not exceeding three years, for which an authority is to be entitled to appoint the chairperson (the “appointing period”); and
- (b) whether the chairperson will be appointed by the Health Board or by one of the local authorities in the first appointing period.

(2) The appointment of the chairperson is to alternate between the Health Board and a local authority, so that in each second alternating appointing period the chairperson is appointed by the Health Board.

(3) The Health board, or as the case may be, a local authorities, 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.

(4) A constituent authority may change the person appointed as chairperson or vice-chairperson during an appointing period.

(5) A local authority may only appoint as chairperson or vice-chairperson a member of the integration joint board nominated by it in accordance with article 3(1)(a).

(6) The Health Board may only appoint as chairperson or vice-chairperson a member of the integration joint board nominated by it in accordance with article 3(1)(b) who is a non-executive director of the Health Board.

Temporary vacancies where integration scheme prepared by two or more local authorities.

7. The arrangements in relation to temporary vacancies in membership are to be such as the constituent authorities agree.

Term of office of members

8.—(1) Subject to paragraph (2), the term of office of a member of the integration joint board member is to be determined by the constituent authorities, but is not to exceed three years.

(2) A member appointed under article 3(1)(c)-(f) or, as the case may be, article 5(2)(c)-(f) is to remain a member for as long as they hold the office in respect of which they are appointed.

(3) A member who is a councillor appointed on the nomination of the local authority is not required to resign before the expiry of the term of office determined under paragraph (1) only by reason of ceasing to be a councillor.

(4) At the end of a term of office determined under paragraph (1), a member may be reappointed for a further term of office.

(5) This article is subject to the effect of article 13 (resignation of members) and 14 (removal of members).

Voting

9.—(1) All questions put to a meeting of an integration joint board are to be decided by a majority of the voting members attending and voting at the meeting.

(2) If there is an equality of votes on any question put to a meeting of an integration joint board the chairperson or, in the absence of the chairperson, the vice-chairperson is to have a second or casting vote.

Temporary vacancies in voting membership

10.—(1) Where there is a temporary vacancy in the voting membership of the integration joint board, the vote which would be exercisable by a member appointed to that vacancy may be

exercised jointly by the other members nominated by the constituent authority which is entitled to nominate a member to fill the temporary vacancy.

(2) In this article a reference to a "temporary vacancy" means a vacancy in respect of which a constituent authority is required to nominate a person, but is unable for the time being to do so.

(3) Paragraph (4) applies where, due to two or more temporary vacancies, the number of members nominated by one of the constituent authorities under article 3(1)(a) or (b) is one, or a constituent authority has been unable to nominate any members, and where by virtue of article 4, the chairperson is to be appointed by that constituent authority.

(4) Where this paragraph applies the chairperson of the integration joint must be temporarily appointed by the other constituent authority.

(5) Where a temporary vacancy, or the circumstances in which paragraph (4) applies, persists for longer than six months the Chairperson of the integration joint board must notify the Scottish Ministers in writing of the reasons why the vacancy remains unfilled.

Effect of vacancy in membership

11. A vacancy in the membership of an integration joint board shall not invalidate anything done or any decision made by that integration joint board.

Disqualification

12.—(1) A person to whom paragraph (2) applies is disqualified from being a member of the integration joint board.

(2) The persons to who this paragraph applies are—

- (a) a person who has within the period of five years immediately preceding the proposed date of appointment as a member of the board been convicted in the United Kingdom, the Channel Islands, the Isle of Man or the Irish Republic of any offence in respect of which they have received a sentence of imprisonment (whether suspended or not) for a period of not less than three months (without the option of a fine);
- (b) a person who has been removed or dismissed, other than by reason of redundancy, from any paid employment or office with a Health Board or local authority;
- (c) a person who is insolvent;
- (d) a person who has been removed from a register maintained by the registrar of a regulatory body, other than where the removal was voluntary;

(3) For the purposes of (2)(a) the date of conviction shall be deemed to be on the date on which the days of appeal expire without any appeal having been lodged, or if an appeal has been made, the date on which the appeal is finally disposed of or treated as having been abandoned.

(4) In this article:

- (a) a person is "insolvent" if:
 - (i) the person's estate is sequestrated;
 - (ii) the person is adjudged bankrupt;
 - (iii) an individual voluntary arrangement proposed by the person is approved under Part VIII of the Insolvency Act 1986;
 - (iv) the person enters into a debt arrangement programme under Part I of the Debt Arrangement and Attachment (Scotland) Act 2002 as the debtor; or
 - (v) the person enters a trust deed for creditors;
 - (vi) a bankruptcy restrictions order has been made in respect of the person; or
 - (vii) the person has given a bankruptcy restrictions undertaking.
- (b) The term "registrar of a regulatory body" means the following:
 - the Registrar of Chiropractors;

the registrar of dentists and dental care professionals;
the registrar of the General Medical Council;
the registrar of the General Optical Council;
the Registrar of health professionals;
the Registrar of nurses and midwives;
the Registrar of Osteopaths;
the registrar of pharmacists; and
the Scottish Social Services Council.

- (c) A "voluntary" removal from a register maintained by a regulatory body includes removal by reason of retirement or otherwise ceasing to practice as a regulated professional.

Resignation of members

13.—(1) Subject to paragraph (3), a person may resign their membership of the integration joint board at any time by giving notice in writing to the chairperson.

(2) If a voting member gives notice under paragraph (1) the chairperson must inform the constituent authority which nominated that member.

(3) Paragraph (1) does not apply to a member appointed under article 3(1)(c)-(e) or, as the case may be, article 5(2)(c)-(e).

Removal of Members

14.—(1) A constituent authority may remove a member which it nominated by providing one month's notice in writing to the member and the chairperson.

(2) If a member has not attended three consecutive meetings of the integration joint board, and the absence was not due to illness or other reasonable cause, the integration joint board may remove the member from office by providing the member with one month's notice in writing.

(3) If the member acts in a way which brings the integration joint board into disrepute or in a way which is inconsistent with their membership of the board, the integration joint board may remove the member from office.

(4) If a member becomes disqualified under article 8 during a term of office they are to be removed from office.

(5) Paragraphs (1)-(4) do not apply to a member appointed under article 3(1)(c)-(f) or, as the case may be, article 5(2)(c)-(e).

Expenses

15. An integration joint board may pay to its members all reasonable expenses relating to travel and subsistence costs incurred by them in connection with their membership of the integration joint board.

Committees

16.—(1) An integration joint board may establish committees of its members for the purpose of carrying out such of its functions as the board may determine.

(2) When an integration joint board establishes a committee under (1), it must determine who will act as chairperson of that committee.

Remote participation in meetings

17.—(1) A meeting of the integration joint board or a committee of an integration joint board may be conducted either—

- (a) by all members being present together in the place specified in the notice of the meeting;
or
- (b) in any other way in which each member is enabled to participate despite not being present with other members.

(2) Participation in a meeting by virtue of paragraph (1)(b) is to be treated as attendance at that meeting.

Standing orders of the integration joint board

18.—(1) An integration joint board 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 integration joint board shall be conducted in accordance with them.

(2) Standing orders prepared under paragraph (1) must include the matters set out in the Schedule and may include such additional provision as the integration joint board sees fit.

General powers of the integration joint board

19. An integration joint board may enter into a contract with any other person in relation to the provision to the integration joint board of goods and services for the purpose of carrying out functions conferred on it by the Act

St Andrew's House,
Edinburgh

Name
A member of the Scottish Government

SCHEDULE

Article 19

MATTERS TO BE INCLUDED IN STANDING ORDERS

Calling meetings

1.—(1) The first meeting of an integration joint board is to be convened at a time and place determined by the chairperson.

(2) The chairperson may call a meeting of the integration joint board at such times as they see fit.

(3) A request for a meeting of the integration joint board to be called may be made in the form of a requisition specifying the business proposed to be transacted at the meeting and signed by at least two thirds of the voting members, presented to the chairperson.

(4) If a request is made under paragraph (3) and the chairperson refuses to call a meeting, or does not call a meeting within 7 days after the making of the request, the members who signed the requisition may call a meeting.

(5) The business which may be transacted at a meeting called under paragraph (4) is limited to the business specified in the requisition.

Notice of meetings

2.—(1) Before each meeting of the integration joint board, or committee, a notice of the meeting specifying the time, place and business to be transacted at it signed by the chairperson or a member authorised by the chairperson to sign on the chairperson's behalf is to be delivered electronically to every member or sent to the usual place of residence of every member so as to be available to them at least three clear days before the meeting.

(2) A failure to serve notice of a meeting on a member in accordance with paragraph (1) shall not affect the validity of anything done at that meeting.

(3) In the case of a meeting of the integration joint board called by members in default of the chairperson the notice is to be signed by the members who requisitioned the meeting in accordance with paragraph 1(3).

Quorum

3. No business is to be transacted at a meeting of the integration joint board unless at least two thirds of the voting members nominated by the Health Board, and at least two thirds of the voting members nominated by the local authority, are present.

Conduct of meetings

4.—(1) At each meeting of the integration joint board, or a committee of the integration joint board, the chairperson, if attending the meeting, is to preside.

(2) If the chairperson is absent from a meeting of the integration joint board, the vice-chairperson is to preside.

(3) If the chairperson and vice-chairperson are both absent from a meeting of the integration joint board, a voting member chosen at the meeting by the other voting members attending the meeting is to preside but may not exercise a casting vote on any decision put to the meeting.

(4) If it is necessary or expedient to do so a meeting of the integration joint board, or of a committee, may be adjourned to another date, time or place.

Deputies

5.—(1) If a voting member is unable to attend a meeting of the integration joint board the constituent authority which nominated the member, is to use its best endeavours to arrange for a suitably experienced deputy, who is either a councillor or, as the case may be, a member of the Health Board, to attend the meeting.

(2) A deputy attending a meeting of the integration joint board under (1) may vote on decisions put to that meeting.

(3) If the chairperson or vice chairperson is unable to attend a meeting of the integration joint board, any deputy attending the meeting under (1) may not preside over, or exercise any casting vote at, that meeting.

Conflict of interest

6.—(1) If a member or any associate of theirs has any pecuniary or other interest, direct or indirect, in any item of business to be transacted at a meeting of the integration joint board, or a committee, which that member attends, that member shall disclose the nature of the interest and must not vote on any question with respect to that item of business.

(2) A member is not to be treated as having an interest in any item of business if it cannot reasonably be regarded as likely to significantly affect or influence the voting by that member on any question with respect to that item of business.

Records

7.—(1) A record must be kept of the names of the members attending every meeting of the integration joint board or committee.

(2) Minutes of the proceedings of a meeting of the integration joint board or a committee, including any decision made at that meeting are to be drawn up and submitted to the next ensuing meeting of the integration joint board or the committee for agreement after which they must be signed by the person presiding at that meeting.

EXPLANATORY NOTE

(This note is not part of the Order)

Integration joint boards may be established by the Scottish Ministers under section 9 of the Public Bodies (Joint Working)(Scotland) Act. This Order sets out provisions which will apply in relation to the membership, proceedings and operation of all integration joint boards so established.

Article 3 makes provision for the persons who must, and may, be included in the membership of an integration joint board where the integration joint board will operate only in a single local authority area. Paragraph (1) and (2) set out the persons who must be included, as a minimum, in all integration joint boards to which this article applies. This includes members to be nominated by the Health Board and local authority which prepared the integration joint board (the "constituent authorities"), holders of key posts within the constituent authorities or the integration joint board, and representatives of groups having an interest in the integration joint board. Paragraphs (3)-(7) set out arrangements for flexibility for an integration joint board to appoint additional members, or different member, to those provide for in paragraphs (1) and (2), in certain circumstances.

Article 4 provides for the chairperson and vice chairperson to be appointed from among the members nominated by each constituent authority. The constituent authorities will have responsibility for these appointments on an alternating basis, with the maximum term of appointment to be three years.

Article 5 makes provision for the persons who must, as a minimum, be included in the membership of an integration joint board which will operate in two or more local authority areas, and provides that additional members may be appointed as agreed between the constituent authorities. Article 6 makes provision for appointment of the chairperson to alternate between the health board on the one hand, and the local authorities on the other hand.

Article 8(1) provides that the term of office for members is not to exceed three years. An exception to this is set out in 8(2) where a person is a member by virtue of holding a particular post within a constituent authority or the integration joint board. In such circumstances, the member may remain in office as long as they hold the relevant post. Article 8(3) sets out that where a member is a councillor, and ceases to hold office as a councillor, they may continue to hold office as a member of the integration joint board. Article 8(4) clarifies that members may be appointed for more than one successive term of office. By virtue of Article 8(5), a member may resign or be removed during their term of office as provided for in this Order.

Articles 9 and 10 provide for voting on questions of the integration joint board, including in the circumstances where, due to vacancies in the membership, the constituent authorities are not represented equally in the membership. Article 11 clarifies that an integration joint board may continue to operate if there is a vacancy in its membership.

Article 12 sets out categories of persons who are disqualified from being appointed as a member.

Articles 13 and 14 provide for the resignation or removal of members.

Article 15 sets out the expenses that may be paid to members.

Article 16 confers powers on integration joint boards to establish committees and delegate functions to those committees. Article 17 makes provision to allow a meeting of a board, or a committee, to take place where members are participating remotely, for example by videoconference technology.

Article 18 imposes a requirement on each integration joint board to create its own standing orders, Paragraph (2) introduces the schedule which sets out certain matters that must be included in the standing orders of every integration joint board.

Articles 19 provides for all integration joint boards to be able to enter into contracts for the purpose of carrying out their functions, for example to obtain administrative support, accounting or legal services.

ANNEX 2(C)



MEMBERSHIP, POWERS AND PROCEEDINGS OF INTEGRATION JOINT BOARDS ESTABLISHED UNDER THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately. **If you are responding to more than one set of regulations at the same time, you only need to complete this form once.**

1. Name/Organisation

Organisation Name

West Dunbartonshire Community Health & Care Partnership

Title Mr ☒ Ms ☐ Mrs ☐ Miss ☐ Dr ☐ Please tick as appropriate

Surname

Sengupta

Forename

Soumen

2. Postal Address

West Dunbartonshire Community Health & Care Partnership,

West Dunbartonshire Council, Garshake Road, Dumbarton.

Postcode
G82 3PU

Phone
01389 737321

Email
soumen.soumen.sengupta@ggc.scot.nhs.uk

3. Permissions - I am responding as...

Individual

/ Group/Organisation

☐

Please tick as appropriate

☒

- (a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate

☐ Yes ☐ No

- (c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Yes, make my response, name and address all available ☐

or

Yes, make my response available, but not my name and address ☐

or

Yes, make my response and name available, but not my address ☐

Are you content for your **response** to be made available?

Please tick as appropriate

☒ Yes ☐ No

(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate

☒ Yes

☐ No

4. Additional information – I am responding as:

4. Local Authority	West Dunbartonshire Council
16. Other – please specify	Community Health & Care Partnership

ANNEX 2(D)

MEMBERSHIP, POWERS AND PROCEEDINGS OF INTEGRATION JOINT BOARDS ESTABLISHED UNDER THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

CONSULTATION QUESTIONS

1. Are there any additional non-voting members who should be included in the Integration Joint Board?

Yes

☒

No

☐

2. If you answered 'yes', please list those you feel should be included:

We have a practical concern about the sheer number of non-voting members identified, not least in terms of the effective functioning of meetings. It should also be noted that the stakeholder interests set out within the regulations are only for the minimum requirements/functions (i.e. do not give consideration to an equivalent representation of interests for children's services and criminal justice).

However, if this is the model of governance that HSCPs will have to work within, then the list should also include trade union/staff side representatives as non-voting members: one for local authority employees and one for the NHS health board employees, with the condition being that both of these representatives themselves work within the HSCP concerned.

We have a principled concern that a number of specific interest groups (e.g. independent and third sector organisations) are to be given a voice at the Integration Joint Board but without any reciprocal statutory mandate provided to the Chief Officer in respect of those sectors, agencies or organisations given the Chief Officer's leadership responsibility for the health and wellbeing of their local population.

We are also concerned about the unfair expectation on specific non-voting members in being able represent the diverse perspectives of wider constituencies in any meaningful fashion, most notably in relation to service user and carer representatives (and indeed unclear how providing such a visible voice in the Integration Joint Board to such discrete individuals would satisfy the requirements of the Equalities Act). We would suggest that in keeping with the parallel legislation being progressed in respect of community empowerment/engagement (that the HSCP will be obliged to comply with in any case), it would be more constructive to emphasise that HSCP are obliged to engage with relevant communities and also relevant groups representative of the protected characteristics set out within the Equalities Act as part of strategic or locality planning – and it is for the Integration Joint Board to hold the Chief Officer to account for how the HSCP does that within the context of local Community Planning arrangements.

3. Are there any other areas related to the operation of the Integration Joint Board that should also covered by this draft Order?

The draft Order directs that "*Where the Health Board is unable to fill all their places with non-executive directors they can then nominate other appropriate people, who must be members of the Health Board, to fill their spaces.*" We would not support that voting members should be present just to "fill spaces" and so the requirement should be that only non-executive directors can be voting members on behalf of NHS Boards.

We do support the proportion of voting members from Councils and NHS Boards who are required to attend for an Integration Joint Board meeting to be quorate.

4. Are there any further comments you would like to offer on this draft Order?

It is useful for the Scottish Government to have laid out a national model of matters to be included in the Standing Orders as this will establish and support equity and consistency across the partnerships sharing a NHS Board area as the legalities will be similar, if not the same, for most areas.

ANNEX (3A)

ESTABLISHMENT, MEMBERSHIP AND PROCEEDINGS OF INTEGRATION JOINT MONITORING COMMITTEES ESTABLISHED UNDER THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

CONSULTATION PAPER

An integration joint monitoring committee is to be established by a Local Authority and Health Board where they have chosen to use a lead agency model of integration. Its purpose is to monitor the carrying out of integration functions for the area of the Local Authority. By doing this, the integration joint monitoring committee will hold the body or bodies to whom the functions are delegated to account for the delivery of integrated services and it will provide assurances to the Health Board and the Local Authority of the progress that is being made to achieve the national health and wellbeing outcomes. It will have the ability to write reports and make recommendations to the lead agency, where it sees fit, and is key to providing on-going scrutiny and joint accountability of the integrated arrangements.

The draft Order sets out provisions in relation to the membership, proceedings and general operation of all integration joint monitoring committees established under the Public Bodies (Joint Working) (Scotland) Act 2014.

Intended provisions as to membership and proceedings of the integration joint monitoring committee

Membership of the integration joint monitoring committee

The draft Order sets out a minimum requirement for the membership of the integration joint monitoring committee, but also allows flexibility for additional members to be added. It is intended that the minimum required membership will be:

- 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.

In addition, the integration joint monitoring committee may appoint any other members as the integration joint monitoring committee see fit.

The nominees from the Local Authority and the Health Board will be nominated directly to the integration joint monitoring committee by the Local Authority and the Health Board.

The officers of the Health Board and the Local Authority will be nominated because of the statutory role that they fulfil, in the case of the Chief Social Work Officer and the Local Authority officer, or because they have been identified by the Health Board as the appropriate person for the Clinical Director or Health Board Director of Finance.

This draft Order sets out that the integration joint monitoring committee is to seek and recruit the staff-side, third sector, carer and service user representatives once the integration joint monitoring committee is established. The Scottish Government will provide guidance about the most appropriate way of doing this and if there are key groups that should be involved.

Locally, the integration joint monitoring committee might wish to add additional members perhaps because they are a key stakeholder locally, or they wish to seek more representation from a particular group, or alternatively because the Integration Scheme includes delegation of functions beyond adult health and adult social care, which will require additional professional advice; for example, in relation to children's services, if those services are included in the Integration Scheme.

Appointment of the Chairperson

The draft Order requires the Health Board and the Local Authority to jointly agree who will chair the integration joint monitoring committee. It permits them to jointly change the chairperson, if required, by giving the chairperson one month's notice in writing.

Standing orders

This draft Order contains a Schedule, which sets out provisions which will require to be included in the standing orders prepared by each integration joint monitoring committee. These include provision in relation to calling meetings, notice of meetings, quorum, conduct of meetings, voting, deputies, conflict of interest and records.

ANNEX 3(B)

**ESTABLISHMENT, MEMBERSHIP AND PROCEEDINGS OF THE INTEGRATION
JOINT MONITORING COMMITTEES ESTABLISHED UNDER THE PUBLIC
BODIES (JOINT WORKING) (SCOTLAND) ACT 2014**

Draft Order

2014 No.

HEALTH, SOCIAL CARE

The Public Bodies (Joint Working) (Membership and Operation of Integration Joint Monitoring Committees) (Scotland) Order 2014

Made - - - - - ***

Laid before the Scottish Parliament ***

Coming into force - - - in accordance with article 1

The Scottish Ministers make the following Order in exercise of the powers conferred on them by sections 17 and 69(1) of the Public Bodies (Joint Working) (Scotland) Act 2014(a) and all other powers enabling them to do so.

Citation, commencement and interpretation

1.—(1) This Order may be cited as The Public Bodies (Joint Working)(Membership and Operation of Integration Joint Monitoring Committees)(Scotland) Order 2014 and comes into force on *(tbc)*.

(2) In this Order—

“the Act” means the Public Bodies (Joint Working) (Scotland) Act 2014;

“chairperson” means the chairperson of the integration joint monitoring committee for the time being appointed under article 4 or, as the case may be, article 6; and

“nominated members” means the members of the integration joint monitoring committee appointed under article 3(1)(a) and (b) or, as the case may be, 5(1)(a) and (b).

Application of this Order

2.—(1) Article 3 applies only where an integration scheme is prepared under sections 1(2) or 2(3) of the Act.

(2) Article 4 applies only where an integration scheme is prepared under section 2(4) of the Act.

(3) Except as provided for by paragraphs (1) or (2), the provisions of this Order apply to all integration joint monitoring committees.

Membership where integration scheme prepared by one local authority

3.—(1) An integration joint monitoring committee established by a Health Board and local authority under section 15(3) of the 2014 Act must include the following members:

(a) three councillors nominated by the local authority;

(b) three persons nominated by the Health Board;

(a) 2014 ASP 9

- (c) the chief social worker officer of the local authority;
 - (d) a registered health professional employed by, and chosen by, the Health Board;
 - (e) where the integration authority is the local authority, or is the Health Board and local authority acting jointly, the proper officer of the local authority appointed under section 95 of the Local Government (Scotland) Act 1973;
 - (f) where the integration authority is the Health Board, or is the Health Board and local authority acting jointly, the Director of Finance of the Health Board;
 - (g) one member appointed by the integration joint monitoring committee as a representative of each of the groups described in paragraph (2).
- (2) The groups referred to in (1)(g) are:
- (a) where the integration authority is the Health Board, or is the Health Board and local authority acting jointly, staff of the Health Board engaged in the provision of services provided under integration functions
 - (b) where the integration authority is the local authority, or is the Health Board and local authority acting jointly, staff of the local authority engaged in the provision of services provided under integration functions;
 - (c) third sector bodies carrying out activities related to health or social care in the area of the local authority;
 - (d) users of health and social care services residing in the area of the local authority; and
 - (e) persons providing unpaid care in the area of the local authority.
- (3) Except where paragraph (4) applies, the persons nominated by the Health Board under article 3(1)(b) must be non-executive directors of that Health Board
- (4) If the Health Board is unable to nominate three non-executive directors—
- (a) it must nominate two non-executive directors and
 - (b) it must nominate an appropriate person.
- (5) The integration joint monitoring committee may appoint such additional members as it sees fit.
- (6) In this article
- “appropriate person” means a member of the Health Board, but does not include any person who is both a member of the Health Board and a councillor; and
- “third sector bodies” includes non-commercial providers of health and social care, representative groups, interest groups, social enterprises and community organisations.

Membership where integration scheme prepared by two or more local authorities

4.—(1) Subject to the provisions of this article, where an integration scheme is prepared by a Health Board jointly with more than one local authority under section 2(4) of the 2014 Act, the membership of the integration joint monitoring committee shall be as the health board and local authorities may agree.

(2) The membership of an integration joint monitoring committee to which this article applies shall include at least:

- (a) three councillors nominated by the local authorities, or if the integration scheme is prepared by more than three local authorities, one representative of each local authority;
- (b) three persons nominated by the Health Board
- (c) the chief social worker officer of one of the local authorities;
- (d) a registered health professional employed by, and chosen by, the Health Board;
- (e) Where the integration authority is a local authority, or is the Health Board and local authority acting jointly, the proper officer of that local authority appointed under section 95 of the Local Government (Scotland) Act 1973;

- (f) Where the Integration Authority is the Health Board, or is the Health Board and local authority acting jointly, the Director of Finance of the Health Board;
 - (g) one member appointed by the chairperson of the integration joint monitoring committee as a representative of each of the groups described in paragraph (3).
- (3) The groups referred to in (2)(g) are:
- (a) staff of the health board engaged in the provision of services provided under integration functions
 - (b) staff of the local authorities engaged in the provision of services provided under integration functions;
 - (c) third sector bodies carrying out activities related to health or social care in the area of the local authority;
 - (d) users of health and social care services residing in the area of the local authority; and
 - (e) persons providing unpaid care in the area of the local authority.
- (4) Except where paragraph (5) applies, the persons nominated by the Health Board under article 3(1)(b) must be non-executive directors of that Health Board
- (5) If the Health Board is unable to nominate three non-executive directors—
- (a) it must nominate two non-executive directors and
 - (b) it must nominate an appropriate person.
- (6) In this article—
- “appropriate person” means a member of the Health Board, but does not include any person who is both a member of the Health Board and a councillor; and
- “third sector bodies” includes non-commercial providers of health and social care, representative groups, interest groups, social enterprises and community organisations.

Term of office of members

- 5.—(1) Subject to paragraph (2), the term of office of a member of the integration joint monitoring committee is to be determined by the Health Board and local authority, but is not to exceed three years.
- (2) A member appointed under article 3(1)(c)-(f) or, as the case may be, article 4(2)(c)-(f) is to remain a member for as long as they hold the office in respect of which they are appointed.
- (3) A member who is a councillor appointed on the nomination of the local authority is not required to resign before the expiry of the term of office determined under paragraph (1) only by reason of ceasing to be a councillor.
- (4) At the end of a term of office determined under (1), a member may be reappointed for a further term of office.
- (5) This article is subject to the effect of article 9 (resignation of members) and article 10 (removal of members).

Appointment of Chairperson

- 6.—(1) When an integration joint monitoring committee is established, the Health Board and Local Authority must appoint a chairperson from among the nominated members.
- (2) The local authority and Health Board may by agreement, and where it is reasonably practicable to do so by providing one month's notice to the chairperson, change the member that is appointed as chairperson.

Vacancy in membership

7. A vacancy in the membership of an integration joint monitoring committee shall not invalidate anything done or any decision made by that committee

Disqualification

8.—(1) A person to whom paragraph (2) applies is disqualified from being a member of an integration joint monitoring committee.

(2) The persons to whom this paragraph applies are—

- (a) a person who has within the period of five years immediately preceding the proposed date of appointment been convicted in the United Kingdom, the Channel Islands, the Isle of Man or the Irish Republic of any offence in respect of which they have received a sentence of imprisonment (whether suspended or not) for a period of not less than three months (without the option of a fine);
- (b) a person who has been removed or dismissed, other than by reason of redundancy, from any paid employment or office with a Health Board or local authority;
- (c) a person who is insolvent; or
- (d) a person who has been removed from a register maintained by the registrar of a regulatory body other than where the removal was voluntary.

(3) For the purposes of (2)(a) the date of conviction shall be deemed to be on the date on which the days of appeal expire without any appeal having been lodged, or if an appeal has been made, the date on which the appeal is finally disposed of or treated as having been abandoned.

(4) In this article:

- (a) a person is “insolvent” if—
 - (i) the person’s estate is sequestrated;
 - (ii) the person is adjudged bankrupt;
 - (iii) an individual voluntary arrangement proposed by the person is approved under Part VIII of the Insolvency Act 1986;
 - (iv) the person enters into a debt arrangement programme under Part I of the Debt Arrangement and Attachment (Scotland) Act 2002 as the debtor;
 - (v) the person enters a trust deed for creditors;
 - (vi) a bankruptcy restrictions order has been made in respect of the person; or
 - (vii) the person has given a bankruptcy restrictions undertaking.
- (b) the term “registrar of a regulatory body” means the following—
 - The Registrar of Chiropractors;
 - The registrar of dentists and dental care professionals;
 - The registrar of the General Medical Council;
 - The registrar of the General Optical Council;
 - The Registrar of health professionals;
 - The Registrar of nurses and midwives;
 - The Registrar of Osteopaths;
 - The registrar of pharmacists; and
 - The Scottish Social Services Council; and
- (c) a “voluntary” removal from a register maintained by a regulatory body includes removal by reason of retirement or otherwise ceasing to practice as a regulated professional.

Resignation of Members

9.—(1) A member may resign their membership of the integration joint monitoring committee at any time by giving notice in writing to the chairperson.

(2) If a nominated member gives notice under (1), the chairperson of the integration joint monitoring committee must give notice to the local authority or, as the case may be, Health Board which nominated the member.

Removal of members

10.—(1) A local authority or Health Board may remove a member which it nominated by providing one month's notice to the member in question and to the chairperson.

(2) If a member has not attended three consecutive meetings of the integration joint monitoring committee, and absence was not due to illness or other reasonable cause, the committee may remove the member by providing the member with one month's notice in writing.

(3) If a member has acted in a way which brings the integration joint monitoring committee into disrepute or in a way which is inconsistent with their membership of the committee, the committee may, with the agreement of the health board and local authority, and by giving notice in writing to the member in question, remove the member from office.

(4) If a member becomes disqualified under article 8 during a term of office they are to be removed from office.

(5) Paragraphs (1)-(4) do not apply to a member appointed under article 3(1)(c)-(f) or, as the case may be, article 4(2)(c)-(f).

Expenses of Members

11. An integration joint monitoring committee may pay to its members all reasonable expenses relating to travel and subsistence costs incurred by them in connection with their membership.

Remote participation in meetings of the integration joint monitoring committee

12.—(1) A meeting of the integration joint monitoring committee may be conducted either—

- (a) by all members being present together in a place specified in the notice of the meeting; or
- (b) in any other way in which each member is enabled to participate despite not being present with other members.

(2) Participation in a meeting by virtue of paragraph (1)(b) is to be treated as attendance at that meeting.

Standing Orders

13.—(1) An integration joint monitoring committee must make, and may amend, standing orders for the regulation of the its procedure and business, and all meetings and the proceedings of the integration joint monitoring committee shall be conducted in accordance with them.

(2) Standing orders prepared under (1) must include the matters set out in the Schedule and may include such additional provision as the integration joint monitoring committee thinks fit.

Name

A member of the Scottish Government

St Andrew's House,
Edinburgh

SCHEDULE

Article 13

MATTERS TO BE INCLUDED IN STANDING ORDERS

Calling meetings

1.—(1) The first meeting of an integration joint monitoring committee is to be convened at a time and place determined by the chairperson.

(2) The chairperson may call a meeting of the integration joint monitoring committee at such times as the chairperson sees fit.

(3) A request for a meeting of the integration joint monitoring committee to be called may be made in the form of a requisition specifying the business proposed to be transacted at the meeting, and signed by at least two thirds of the members, presented to the chairperson.

(4) If a request is made under paragraph (3) and the chairperson refuses to call a meeting, or does not call a meeting within 7 days after the making of the request, the members who signed the requisition may call a meeting.

(5) The business which may be transacted at a meeting called under sub-paragraph (4) is limited to the business specified in the requisition.

Notice of meetings

2.—(1) Before each meeting of the integration joint monitoring committee a notice of the meeting specifying the time, place and business to be transacted at it, signed by the chairperson or a member authorised by the chairperson to sign on the chairperson's behalf is to be delivered electronically to every member or sent to the usual place of residence of every member so as to be available to them at least three clear days before the meeting.

(2) A failure to serve notice of a meeting in accordance with sub-paragraph (1) does not affect the validity of anything done at that meeting.

(3) In the case of a meeting of the integration joint monitoring committee called by members in default of the chairperson the notice is to be signed by the members who requisitioned the meeting in accordance with paragraph 1(3).

Quorum

3. No business is to be transacted at a meeting of the integration joint monitoring committee unless at least two thirds of the nominated members are present.

Conduct of meetings

4.—(1) At each meeting of the integration joint monitoring committee the chairperson, if attending the meeting is to preside.

(2) If the chairperson is absent from a meeting, the person appointed by the committee as vice chairperson, or such other member as may be chosen by the members attending the meeting, is to preside.

(3) If it is necessary or expedient to do so a meeting of the integration joint monitoring committee may be adjourned to another date, time or place.

Voting

5. Every question at a meeting of the integration joint monitoring committee is to be determined by a majority of the votes of the members attending the meeting, and in the case of any equality of votes, the person presiding at the meeting is to have a second or casting vote.

Deputies

6.—(1) If a nominated member is unable to attend a meeting of the integration joint monitoring committee the Health Board or local authority which nominated that member is to use its best endeavours to arrange for a suitably experienced deputy to attend the meeting.

(2) A deputy attending a meeting of the integration joint monitoring committee may vote on decisions put to that meeting.

Conflict of interest

7.—(1) If a member or any associate of theirs has any pecuniary or other interest, direct or indirect, in any item of business to be transacted at a meeting of the integration joint monitoring committee at which that member is present, that member shall disclose the nature of the interest and must not vote on any question with respect to that item of business.

(2) A member is not to be treated as having an interest in any item of business if it cannot reasonably be regarded as likely to significantly affect or influence the voting by that member on any question with regard to that item of business.

Records

8.—(1) A record must be kept of the names of the members attending every meeting of the integration joint monitoring committee.

(2) Minutes of the proceedings of a meeting of the integration joint monitoring committee, including any decision or resolution made at that meeting are to be drawn up and submitted to the next ensuing meeting of the integration joint monitoring committee for agreement after which they must be signed by the person presiding at that meeting.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order sets out provisions which will apply in relation to the membership, proceedings and operation of all integration joint monitoring committees established under section 15(3) of the Public Bodies (Joint Working) (Scotland) Act 2014.

Articles 3 and 4 makes provision for the persons who must, and may, be included in the membership of an integration joint monitoring committee, depending on whether the integration joint monitoring committee is established by a Health Board acting with one, or more than one, local authority. This includes members to be nominated by the Health Board and local authority which established the committee, holders of key posts within the Health Board and local authority board, and representatives of groups having an interest in the committee.

Article 5(1) provides that the term of office for members is not to exceed three years. An exception to this is set out in 5(2) where a person is a member by virtue of holding a particular post within a health board or local authority. In such circumstances, the member may remain in office as long as they hold the relevant post. Article 5(3) sets out that where a member is a councillor, and ceases to hold office as a councillor, they may continue to hold office as a member of the integration joint board. Article 5(4) clarifies that members may be appointed for more than one successive term of office. By virtue of Article 5(5), a member may resign or be removed during their term of office as provided for in this Order.

Article 6 provides for the chairperson of the committee to be appointed from among the members nominated by the Health Board and local authority.

Article 7 clarifies that an integration joint monitoring committee may continue to operate if there is a vacancy in its membership.

Article 8 sets out categories of persons who are disqualified from being appointed as a member.

Articles 9 and 10 provide for the resignation or removal of members.

Article 11 sets out the expenses that may be paid to members.

Article 12 makes provision to allow a meeting of a committee, to take place where members are participating remotely, for example by videoconference technology.

Article 13 imposes a requirement on each integration joint monitoring committee to create its own standing orders. Paragraph (2) introduces the Schedule which sets out certain matters that must be included in the standing orders of every integration joint board.

ANNEX 3(C)



The Scottish
Government
Riaghaltas na h-Alba

ESTABLISHMENT, MEMBERSHIP AND PROCEEDINGS OF INTEGRATION JOINT MONITORING COMMITTEES ESTABLISHED UNDER THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately. **If you are responding to more than one set of regulations at the same time, you only need to complete this form once.**

This section relates to only areas partnerships that have opted for a lead agency model, so is therefore not relevant for comment from or in relation to West Dunbartonshire.

ANNEX 4(A)

PRESCRIBED MEMBERSHIP OF STRATEGIC PLANNING GROUPS ESTABLISHED UNDER THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

CONSULTATION PAPER

The integration planning principles state that services should be “planned and led locally in a way which is engaged with the community (including those who look after service-users and those who are involved in the provision of health and social care)”.

The Public Bodies (Joint Working) (Scotland) Act requires the Integration Authority to prepare a strategic plan for the area of the Local Authority. A strategic plan is a document that sets out the arrangements for carrying out the integrated functions, and how these arrangements are intended to achieve the national health and wellbeing outcomes. Each strategic plan should last for three years, although the planning period of each plan can be longer (so an Integration Authority can set out a five year or a ten year plan but must renew it at least every three years). The plan should be subject to a continual cycle of analysis and review. As part of the strategic planning process, Integration Authorities will be required to:

- Embed patients/clients and their carers in the decision making process;
- Treat the third and independent sectors as key partners; and
- Involve GPs, other clinicians and social care professionals in all stages of the planning work, from the initial stages to the final draft.

Integration Authorities are required to establish a strategic planning group, which must be involved in all stages of developing and reviewing plans. Depending on the model of integration chosen, the group must involve members nominated by the Local Authority or the Health Board, or both. The Integration Authority will be required to involve a range of relevant stakeholders, to be prescribed by Scottish Ministers as having an interest. The Integration Authority can appoint others as it feels appropriate.

The draft Regulations state that the following people or groups of people within the Local Authority area must be represented by an individual on the strategic planning group (*with brief descriptions of each group*):

- Health professionals who operate within the Local Authority area (*this should be an individual, representative of health professionals, including doctors, nurses, allied health professionals etc*);
- Users of health care who reside within the Local Authority area (*this should be an individual, representative of people who use health or social care services*);
- Carers of users of health care who reside within the Local Authority area (*this should be an individual, representative of carers of people who use health services*);
- Commercial providers of health care who operate within the Local Authority area (*this should be an individual, representative of the independent ‘for profit’ providers of health care services*);

- Non-commercial providers of health care who operate within the Local Authority area *(this should be an individual, representative of 'third sector', 'voluntary' or 'not for profit' providers of health care services);*
- Social care professionals who operate within the Local Authority area *(this should be a social service professional, with relevant social care qualifications);*
- Users of social care who reside within the Local Authority area *(this should be an individual, representative of people who use social care services);*
- Carers of users of social care who reside within the Local Authority area *(this should be an individual, representative of carers of people who use social care services);*
- Commercial providers of social care who operate within the Local Authority area *(this should be an individual, representative of the independent 'for profit' providers of social care services);*
- Non-commercial providers of social care who operate within the Local Authority area *(this should be an individual, representative of 'third sector', 'voluntary' or 'not for profit' providers of social care services);*
- Non-commercial providers of social housing within the Local Authority area *(this should be an individual, representative of providers of social housing);*
- Third sector bodies within the Local Authority carrying out activities related to health or social care *(this should be an individual, representative of interest groups, social enterprises or community organisations who are active in the area of health or social care).*

This consultation provides the opportunity for formal comment on the draft Regulations.

ANNEX 4(B)

PRESCRIBED MEMBERSHIP OF STRATEGIC PLANNING GROUPS ESTABLISHED UNDER THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

Draft Regulations

2014 No.

HEALTH, SOCIAL CARE

**Public Bodies (Joint Working) (Membership of Strategic
Planning Group) (Scotland) Regulations 2014**

<i>Made</i> - - - -	***
<i>Laid before the Scottish Parliament</i>	***
<i>Coming into force</i> - -	***

The Scottish Ministers make the following Regulations in exercise of the powers conferred on them by section 32(2) of the Public Bodies (Joint Working) (Scotland) Act 2014 (a) and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as The Public Bodies (Joint Working) (Membership of the Strategic Planning Group) (Scotland) Regulations 2014 and come into force on [date].

Prescribed groups of persons

2.—(1) The groups of persons listed in the Schedule are prescribed for the purposes of section 32(2) (establishment of strategic planning group).

(2) The groups of persons listed in the Schedule are only prescribed insofar as—

- (a) in the case of users of health care or social care, they reside within the local authority area;
- (b) in the case of carers of users of health or social care, they care for a person who resides within the local authority area; or
- (c) in any other case, they operate within the local authority area.

(3) In these Regulations, “third sector” includes representative groups, interest groups, social enterprises and community organisations.

St Andrew’s House,
Edinburgh
[Date]

Name
A member of the Scottish Government

SCHEDULE

Regulation 2

Groups of persons to be represented in the membership of a strategic planning group

Health professionals

Users of health care

Carers of users of health care

Commercial providers 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

EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations prescribe groups of persons for the purposes of section 32(2) of the Public Bodies (Joint Working) (Scotland) Act 2014 (“the 2014 Act”).

Regulation 2(1) introduces the Schedule. The Schedule lists the groups of persons who appear to the Scottish Ministers to have an interest for the purposes of section 32(2). The effect of Regulation 2 is that an integration authority’s strategic planning group must include a representative of each of the groups of persons listed in the Schedule. Regulation 2(2) provides some limitations to the extent to which the groups are prescribed.

ANNEX 4(C)



PRESCRIBED MEMBERSHIP OF STRATEGIC PLANNING GROUPS ESTABLISHED UNDER THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

RESPONDENT RESPONSE INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately. **If you are responding to more than one set of regulations at the same time, you only need to complete this form once.**

1. Name/Organisation

Organisation Name

West Dunbartonshire Community Health & Care Partnership

Title Mr ☒ Ms ☐ Mrs ☐ Miss ☐ Dr ☐ Please tick as appropriate

Surname

Sengupta

Forename

Soumen

2. Postal Address

West Dunbartonshire Community Health & Care Partnership,

West Dunbartonshire Council, Garshake Road, Dumbarton.

Postcode

G82 3PU

Phone

01389 737321

Email

soumen.soumen.sengupta@ggc.scot.nhs.uk

3. Permissions - I am responding as...

Individual

/ Group/Organisation

☐

Please tick as appropriate

☒

- (a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate

☐ Yes ☐ No

- (c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Are you content for your **response** to be made available?

Please tick as appropriate

☒ Yes ☐ No

Yes, make my response, name and address all available ☐

or

Yes, make my response available, but not my name and address ☐

or

Yes, make my response and name available, but not my address ☐

(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate

☒ Yes

☐ No

4. Additional information – I am responding as:

4. Local Authority	West Dunbartonshire Council
17. Other – please specify	Community Health & Care Partnership

ANNEX 4(D)

PRESCRIBED MEMBERSHIP OF STRATEGIC PLANNING GROUPS ESTABLISHED UNDER THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

CONSULTATION QUESTIONS

1. The draft Regulations prescribe the groups of people that should be represented on the strategic planning group. Do you think the groups of people listed are the right set of people that need to be represented on the strategic planning group?

Yes

☐

No

☒

2. If no, what changes would you propose?

With respect to question 1 above, it is difficult to conceive of an interest group or constituency that has not been given legitimacy within the draft regulations.

The new HSCPs need to be empowered to operate in a manner that is locally responsive and innovative, and not bogged-down in counter-productive and costly bureaucracy. So, for example, the requirement to establish a static strategic planning group is well intended but somewhat traditional and reductive given the volume of individuals who would have to be invited to attend meetings but who themselves are unlikely to (in practice) legitimately represent wider constituencies or communities of interest; or in the case of professional staff, be fully representative of all the disciplines or regulated groups that will be employed within the HSCP.

We would suggest that in keeping with the parallel legislation being progressed in respect of community empowerment/engagement (that the HSCP will be obliged to comply with in any case), it would be more constructive to emphasise the standard consultees (already articulated within the draft regulations) who the HSCP are obliged to engage with as part of strategic or locality planning – and it is for the Integration Joint Board to hold the Chief Officer to account for how the HSCP does that within the context of local Community Planning arrangements.

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

-

ANNEX 5(A)

PRESCRIBED FORM AND CONTENT OF PERFORMANCE REPORTS RELATING TO THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

CONSULTATION PAPER

The Public Bodies (Joint Working) (Scotland) Act 2014 gives Scottish Ministers the powers to set out the form and content of the annual performance report that all Integration Authorities are required to produce. These draft Regulations set out what Scottish Ministers intend to require that Integration Authorities include within the report.

The aim of these draft Regulations is to require that the key elements of the planning and delivery of integrated health and social care services are reported on, and also that there is a measure of national comparability between the reports, while retaining flexibility for each Integration Authority to reflect their local circumstances. In particular, these 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 of any review of the strategic plan within the reporting year;
- Any major decisions taken out with the normal strategic planning mechanisms;
- An overview of the financial performance of the Integration Authority;
- 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.

And within a lead agency arrangement only:

- Any recommendations, and the response to those recommendations, made by the integration joint monitoring committee.

These elements will need to be reported on each year and, where applicable, there will also be a requirement for each annual report to include a comparison with at least the five preceding years.

ANNEX 5(B)

**PRESCRIBED FORM AND CONTENT OF PERFORMANCE REPORTS
RELATING TO THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT
2014**

Draft Regulations

2014 No.

HEALTH, SOCIAL CARE

The Public Bodies (Joint Working) (Content of Performance Reports) (Scotland) Regulations 2014

Made - - - - - ***

Laid before the Scottish Parliament ***

Coming into force - - - in accordance with article 1

The Scottish Ministers make the following Regulations in exercise of the powers conferred on them by section 42(3) and 69(1) of the Public Bodies (Joint Working) (Scotland) Act 2014(a) and all other powers enabling them to do so.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Public Bodies (Joint Working) (Content of Performance Reports) (Scotland) Regulations 2014 and come into force on *(tbc)*.

(2) In these Regulations —

“reporting year” has the same meaning as in section 42(8) of the Act;

“service users” has the same meaning as in section 4(2) of the Act; and

“the Act” means the Public Bodies (Joint Working) (Scotland) Act 2014

Prescribed content of performance report

2.—(1) A performance report prepared by an integration authority must include—

- (a) a description of the extent to which the arrangements set out in the strategic plan and the expenditure allocated in the financial statement have achieved, or contributed to achieving, the national health and wellbeing outcomes during the reporting year;
- (b) information about the integration authority’s performance against key indicators or measures in relation to the national health and wellbeing outcomes during the reporting year;
- (c) information about the way in which the arrangements set out in the strategic plan, and expenditure on those arrangements, have contributed to the provision of services in pursuance of integration functions in accordance with the integration delivery principles during the reporting year;
- (d) a description of the way in which the consultation and involvement of groups in decisions about localities under section 41 of the Act has contributed to compliance with the integration delivery principles during the reporting year, and

(a) 2014 asp 9.

an assessment of the effect that such consultation has had on decisions about the planning and delivery of health and social care services in pursuance of integrated functions in localities;

- (e) information about any significant decisions that have been made by the integration authority under section 36 of the Act during the reporting year;
- (f) information about financial performance, including in particular details of any underspend or overspend against the budget of the integration authority for the reporting year;
- (g) information about the way in which the amounts paid to the integration authority, or set aside for use by the integration authority have been used during the reporting year including in particular the total amount spent by, or under the direction of, the integration authority on each of the matters listed in (2); and
- (h) information setting out the proportion of the integration authorities total spend that was spent on each of the matters listed in (2).

(2) The matters are—

- (a) health care services provided in pursuit of integration functions to hospital inpatients;
- (b) health care services provided in pursuit of integration functions other than those provided to hospital inpatients;
- (c) social care services provided in pursuit of integration functions to service users who are provided with a care home service or adult placement service;
- (d) social care services provided in pursuit of integration functions to support unpaid carers in relation to needs arising from their caring role;
- (e) social care services provided in pursuit of integration functions which are not within (c) or (d) above; and

(3) A performance report must include, in respect of the information which is included in the report by virtue of regulation 2(1)(b), (g) and (h), a comparison between the reporting year and at least the 5 preceding reporting years.

(4) In this article—

“adult placement service” and “care home service” have the meaning ascribed to them by Schedule 12 to the Public Services Reform (S) Act 2010 ; and

“inpatient” means a patient whose treatment requires the patient to be admitted to, and remain in, the place of treatment overnight.

3. If, during the reporting year, the integration authority has carried out a review of the strategic plan, the performance report must include:

- (a) a statement of the reasons for carrying out the review;
- (b) a statement as to whether, following the review, a revised strategic plan was prepared by the integration authority; and
- (c) where a revised strategic plan was prepared, a description of the changes made in revising the strategic plan.

4. If, during the reporting year, a report prepared by an integration joint monitoring committee has included a recommendation as to how integration functions should be carried out, the performance report must include a list of all such recommendations, and the integration authority’s response to each recommendation.

5. A performance report prepared by an integration authority may include such other information relating to the performance of the integration authority during the reporting year as the integration authority thinks fit.

Name

A member of the Scottish Government

St Andrew's House,
Edinburgh

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe the content that is to be included in performance reports prepared by integration authorities under section 42 of the Public Bodies (Joint Working) (Scotland) Act 2014. A performance report is to be prepared by each integration authority annually in respect of the preceding reporting year.

Regulation 2(1), read with 2(2), sets out matters that must be included in every performance report prepared by an integration authority. Regulation 2(3) requires that a performance report must include a comparison with previous reporting years in respect of certain of the prescribed matters.

Regulation 3 sets out matters that must be included in a performance report in the circumstances where an integration authority has carried out a review of its strategic plan during the reporting year.

Regulation 4 sets out matters that must be included in a performance report in the circumstances where an integration joint monitoring committee has made a recommendation to an integration authority during the reporting year.

Regulation 5 provides that, in addition to the matters which must be included by virtue of regulations 2-4, an integration authority may also include additional information about its performance during the reporting year in a performance report.

**PRESCRIBED FORM AND CONTENT OF PERFORMANCE REPORTS
RELATING TO THE PUBLIC BODIES (JOINT WORKING)
(SCOTLAND) ACT 2014**

RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately. **If you are responding to more than one set of regulations at the same time, you only need to complete this form once.**

1. Name/Organisation

Organisation Name

West Dunbartonshire Community Health & Care Partnership

Title Mr ☒ Ms ☐ Mrs ☐ Miss ☐ Dr ☐ **Please tick as appropriate**

Surname

Sengupta

Forename

Soumen

2. Postal Address

West Dunbartonshire Community Health & Care Partnership,

West Dunbartonshire Council, Garshake Road, Dumbarton.

Postcode

G82 3PU

Phone

01389 737321

Email

soumen.soumen.sengupta@ggc.scot.nhs.uk

3. Permissions - I am responding as...

Individual

☐

/ Group/Organisation

☒

Please tick as appropriate

- (a)** Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate

☐ Yes ☐ No

- (c)** The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Yes, make my response, name and address all available ☐

or

Yes, make my response available, but not my name and address ☐

or

Yes, make my response and name available, but not my address ☐

Are you content for your **response** to be made available?

Please tick as appropriate

☒ Yes ☐ No

(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate

☒ Yes

☐ No

4. Additional information – I am responding as:

4. Local Authority	West Dunbartonshire Council
18. Other – please specify	Community Health & Care Partnership

**PRESCRIBED FORM AND CONTENT OF PERFORMANCE REPORTS
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 performance report?

Yes ☒

No ☐

2. If no, please explain why:

3. Are there any additional matters you think should be prescribed in the performance report?

Yes ☐

No ☒

4. If yes, please tell us which additional matters should be prescribed and why:

5. Should Scottish Ministers prescribe the form that annual performance reports should take?

Yes ☐

No ☒

6. If you answered yes, what form should Scottish Ministers prescribe?

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

It is important that performance is reported and can be robustly scrutinised, and we believe that the draft prescribed content should enable this. However, it is also important to recognise – which the regulations as drafted currently do not – that for those HSCPS that incorporate more than the minimum functions their annual performance reports will also have to address those wider remits in a manner that is accessible (and which are prepared in a manner that does not encourage the creation or resourcing of a burdensome and complicated performance reporting “industry”).

We welcome the opportunity to de-clutter the wider performance information - such as HEAT and SOLACE targets - within the framework as this is an already busy landscape which would benefit from streamlining for purposes of clarity of accountability and minimisation of bureaucracy. As such, we would suggest that prescribed reports are given the status by Scottish Government of being Statutory Performance Reports, and as such would *replace* - rather than be in addition - to the current returns required of local authorities and NHS Boards.

In a similar vein, we would encourage the Scottish Government to consider a reduction in the number of currently silo-ed and increasingly over-lapping national audit/inspection/improvement bodies: such a reduction could be used to free-up much needed resource to be transferred to the new HSCPs to assist in meeting the costs of care given the predicted demographic changes over the coming years and the on-going period of fiscal austerity in which the public sector will be operating.

ANNEX 6

SET 2 – PROPOSALS FOR DRAFT REGULATIONS AND ORDERS RELATING TO THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

LIST OF CONSULTEES

Responses to this consultation are welcome from any individual or organisation with an interest. A range of groups and organisations, in relation to health and social care, have been invited to respond including those representing:

- CHP Association
- CHP Directors
- Clerk of the Health and Sports Committee
- CoSLA
- Council leaders
- Departmental Committee Liaison Officer
- Departments of Health (UK, Northern Ireland and Wales)
- Disability Rights Commission
- NHS Board Chairs
- NHS Chief Executives
- Professional Bodies
- Representative groups of carers and service users
- Representative groups of providers of housing and housing services
- Royal Colleges
- Scottish Government Library
- Scottish Members of the European Parliament
- SPICe Library
- The Equality and Human Rights Commission
- The Six Legal Deposit Libraries
- Third and independent sector organisations
- Trade Unions



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