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

The Scottish Government
Riaghaltas na h-Alba

DRAFT REGULATIONS RELATING TO PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014 – SET 1

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DRAFT REGULATIONS RELATING TO PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014 – SET 1

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 will be published for consultation in two sets.

Consultation on the first set of draft Regulations will run for twelve weeks from Monday 12 May 2014 – Friday 1 August 2014 and will cover 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 mayor 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

Consultation on the second set of draft Regulations will run for twelve weeks from Tuesday 27 May 2014 – Monday 18 August 2014 and will cover draft Regulations and Orders relating to:

- Establishment, membership and proceedings of the joint monitoring committee in lead agency arrangements
  Section 17(1) of the Public Bodies (Joint Working) (Scotland) Act 2014

- Membership, powers and proceedings of integration joint boards in body corporate arrangements

Section 12(1) of the Public Bodies (Joint Working) (Scotland) Act 2014

- Prescribed groups which must be consulted when drafting integration schemes, prescribed consultees for draft strategic plans, prescribed consultees for localities, prescribed consultees for revised integration schemes
  Section 6(2)(a), Section 33(6), Section 44(4), Section 46(4)(a) 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

This consultation paper:

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

Following the completion of consultation on both sets of draft Regulations 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 in to force by the end of 2014.

DRAFT REGULATIONS RELATING TO PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014 – SET 1

Public consultation on the first set of draft Regulations 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, high 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 needs of the increasing number of people with longer term and often complex needs, many of whom are older.

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

1. **Prescribed information to be included in the Integration Scheme Section 1(3)(f) of the Public Bodies (Joint Working) (Scotland) Act 2014**

   The Integration Scheme is a document to be prepared in respect of each Local Authority area, by the Local Authority and the relevant Health Board. It sets out models of integration that the Health Board and Local Authority have opted to use in practice. It contains the key agreements that have been made between Health Boards and Local Authorities to make integration a success and describes the necessary processes and procedures that will be put in place.

   Section 1(2) of the Public Bodies (Joint Working) (Scotland) Act 2014 together with sections 2(3) and 2(4), which make provision for the case where there is more than one Local Authority within a Health Board area, requires that Health Boards and Local Authorities prepare an Integration Scheme.

   Section 1(3)(a-e) of the Public Bodies (Joint Working) (Scotland) Act 2014 sets out the key information that must be included in the Integration Scheme, such as the scope of the functions delegated, the resources delegated and the model of integration chosen.

   These Regulations sets out the other matters that Scottish Ministers intend to prescribe for inclusion in the Integration Scheme, and information about these matters, which Health Boards and Local Authorities must provide. They include provisions about the following matters:

- Local governance arrangements
- Local operational arrangements
- Clinical and care governance
- Workforce
- Finance
- Claims management and indemnity arrangements
- Dispute resolution
- Stakeholder and public engagement
- Complaints
- Data sharing
- Risk management

2. **Prescribed functions that must be delegated by Local Authorities Section 1(7) of the Public Bodies (Joint Working) (Scotland) Act 2014**

   The policy intention set out within the Public Bodies (Joint Working) (Scotland) Act 2014 is to achieve the integration of adult health and social care functions, while providing local flexibility to integrate further for other specified functions of Local Authorities.

   Section 1(5) of the Public Bodies (Joint Working) (Scotland) Act 2014 introduces Part 1 of the schedule, which sets out the functions of Local Authorities that may be delegated.

   Section 1(7) of the Public Bodies (Joint Working) (Scotland) Act 2014 allows Scottish Ministers to prescribe in Regulations those functions that must be delegated by a Local Authority, as they relate to specific services for adults. These Regulations sets out those functions.

3. **Prescribed functions that must or may be delegated by Health Boards Section 1(6) &1(8) of the Public Bodies (Joint Working) (Scotland) Act 2014**

   The Public Bodies (Joint Working) (Scotland) Act 2014 requires Local Authorities and Health Boards to enter into an Integration Scheme, which provides the basis for Health Boards and Local Authorities to plan integrated arrangements for the delivery of adult health and social care services.

   Section 1(8) of the Public Bodies (Joint Working) (Scotland) Act 2014 allows the functions of a Health Board that must be delegated under an Integration Scheme to be prescribed within Regulations.

   Section 1(6) of the Public Bodies (Joint Working) (Scotland) Act 2014 allows the functions of a Health Board that may be delegated under an Integration Scheme to be prescribed within Regulations.

   These Regulations sets out the functions of a Health Board that must be delegated and the functions of a Health Board that may be delegated under an Integration Scheme.

4. **Prescribed National Health and Wellbeing Outcomes**
Section 5(1) of the Public Bodies (Joint Working) (Scotland) Act 2014

Section 5(1) of the Public Bodies (Joint Working) (Scotland) Act 2014 allows Scottish Ministers to prescribe National Health and Wellbeing Outcomes.

National Health and Wellbeing Outcomes are high-level statements of purpose which apply to the planning, delivery, review and inspection of the arrangements that are made for the integration of health and social care services. They aim to achieve the improvement in the lives of patients and services users and the quality of service users.

These Regulations set out the nine National Health and Wellbeing Outcomes prescribed under Section 5(1) of the Act.

5. **Interpretation of what is meant by health and social care professionals**
Section 68(1) of the Public Bodies (Joint Working) (Scotland) Act 2014

Section 68(1) of the Public Bodies (Joint Working) (Scotland) Act 2014 provides definitions of key terms, which assist with interpretation of the Act. Under this section, the terms "health professionals" and " social care professionals" are defined as including such groups of persons, engaged in the provision of health and social care respectively, as Scottish Ministers prescribe. These Regulations contain prescribed descriptions of persons who, for the purposes of the Act, are to be within the meaning of the terms health professionals and social care professionals.

Sections 5, 12, 16 and 51 require health professionals and social care professionals to be consulted in relation to the National Health and Wellbeing Outcomes and in relation to any proposed staff transfers to take place under the powers in the Act.

This Regulation sets out the individuals, or groups, that Scottish Ministers consider to be representative of health professionals and social care professionals and who should therefore be included in any such consultation.

6. **Prescribed functions conferred on a Local Authority officer**
Section 23(1) of the Public Bodies (Joint Working) (Scotland) Act 2014

The policy intention set out within the Public Bodies (Joint Working) (Scotland) Act 2014 is to achieve the integration of adult health and social care functions, while providing local flexibility to integrate further for other specified Local Authority functions. The Act states that Scottish Ministers may, by Regulation, prescribe those functions which Local Authorities must delegate under an Integration Scheme.

There are a range of functions, conferred by, or under, the Adult Support and Protection (Scotland) Act 2007 on, specified persons who can be authorised to perform the functions of a "council officer". These relate to functions of Local Authorities which will require to be delegated.

These Regulations, arising from Section 23(1) of the Act enable functions of a "council officer" to be exercised by suitably qualified employees from any of the bodies which prepared the Integration Scheme.

This Regulation sets out which functions, conferred on an officer of a Local Authority, are prescribed.

RESPONDING TO THIS CONSULTATION PAPER

We are inviting written responses to this consultation paper by **Friday 1 August 2014. Please send your response with the completed Respondent Information Form (replicated in Annexes 1C, 2C, 3C, 4C, 5C and 6C) (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 and 6C) 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 6C) 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 and Orders relating to the Public Bodies (Joint Working) (Scotland) Act 2014. We aim to issue a report on this consultation process and we will lay draft Regulations in the Scottish Parliament from late September 2014.

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 web site 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)

PROPOSALS FOR PRESCRIBED INFORMATION TO BE INCLUDED IN THE INTEGRATION SCHEME RELATING TO THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014 (*Section 1(3)(f)*)

CONSULTATION PAPER

These Regulations set out the detail that must be agreed and included within an Integration Scheme by the Health Board and the Local Authority. The Regulation requires that the Health Board, the Local Authority and the Integration Joint Board (or the Integration Joint Monitoring Committee in a lead agency arrangement) act in accordance with the agreements that are made within the Integration Scheme.

The schedule sets out the matters that must be included in the Integration Scheme, along with the key pieces of information that relate to each matter that must be included. The Public Bodies (Joint Working) (Scotland) Act 2014 precludes other information being included within the Integration Scheme, except for the matters that are described in the Act or prescribed in these Regulations. All information included within the Integration Scheme is subject to Ministerial approval.

ANNEX 1(B)

PROPOSALS FOR PRESCRIBED INFORMATION TO BE INCLUDED IN THE INTEGRATION SCHEME RELATING TO THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

Draft Regulations laid before the Scottish Parliament under section 69(2) of the Public Bodies (Joint Working) (Scotland) Act 2014, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2014 No.

HEALTH, SOCIAL CARE

Public Bodies (Joint Working)(Integration Scheme)(Scotland) Regulations 2014

Laid before the Scottish Parliament in draft

Made - - - - ***

Coming into force - - *in accordance with article 1*

The Scottish Ministers make the following Regulations in exercise of the powers conferred on them by sections 1(3)(f), 1(15) and 20 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)(Integration Scheme)(Scotland) Regulations 2014 and come into force on *(tbc)*.

(2) In these Regulations:

"integration model" means an integration model describe in section 1(4) of the Act'; and

"the Act" means the Public Bodies (Joint Working) (Scotland) Act 2014.

Content and effect of integration scheme

2.An integration scheme must include, in relation to each prescribed matter listed in column A of the table, the prescribed information set out in column B of the table, insofar as that prescribed matter is relevant to the integration model chosen by the Health Board and local authority.

3.The prescribed information is to be agreed between the Health Board and local authority when they are preparing the integration scheme.

4. The local authority, Health Board and the integration joint board or, as the case may be, integration joint monitoring committee, established in pursuance of the integration scheme must act in accordance with the prescribed information that is set out in the scheme.

Name
A member of the Scottish Government

St Andrew's House,
Edinburgh

(a) 2014 ASP 9

SCHEDULE

Column A *Prescribed Matters*	*Column B* *Prescribed information*
Local governance arrangements for the integration joint board where the integration scheme is prepared under section 1(3) or 2(3) of the Act	The number of members that will be appointed on the nomination of the local authority. The number of members that will be appointed on the nomination of the Health Board. Whether the first chairperson of the Board will be a member appointed on the nomination of the local authority or from the Health Board. The term of office of the chairperson.
Local governance arrangements for an integration joint board where the integration scheme is prepared under section 2(4) of the Act.	The membership of the integration joint board including in particular: (a) the number of members that will be appointed on the nomination of each local authority; (b) the number of members that will be appointed on the nomination of the Health Board; and (c) the arrangements that have been made for ensuring that the integration joint board includes at least one person who is a chief social work officer, one person who is an associate medical director or clinical director of the Health Board, the Health Board director of finance or one person who is a local authority proper officer, and representatives of staff, carers, service users and the third sector. The arrangements for appointment of the chairperson and vice chair-person. The term of office of the chairperson.
Local governance arrangements for the integration joint monitoring committee where the integration scheme is prepared under section 1(3) or 2(3) of the Act	The number of members that will be appointed on the nomination of the local authority. The number of members that will be appointed on the nomination of the Health Board. Where the committee will comprise members in addition to the members required by Order, information about these additional members, including in particular a description of the role held by each additional member or, as the case may be, the group to be represented by each additional member.

	The arrangements for provision of administrative support to the committee. The arrangements for financing the committee.
Local governance arrangements for an integration joint monitoring committee where the integration scheme is prepared under section 2(4) of the Act.	The membership of the integration joint monitoring committee including in particular: (a) the number of members that will be appointed on the nomination of each local authority; (b) the number of members that will be appointed on the nomination of the Health Board; and (c) the arrangements that have been made for ensuring that the joint monitoring committee includes at least one person who is a chief social work officer, one person who is an associate medical director or clinical director of the Health Board, the Health Board director of finance or one person who is a local authority proper officer, and representatives of staff, carers, service users and the third sector. The arrangements for the appointment of the chairperson of the committee, and the arrangements for changing the person who is appointed as chairperson. The arrangements for provision of administrative support to the committee. The arrangements for financing the committee.
Local operational delivery arrangements for the functions delegated to an integration joint board	Information on the governance arrangements for the carrying out of integrated functions, to include in particular arrangements which have been made for the involvement of the members of the integration joint board in overseeing the carrying out of integration functions by the constituent authorities.
Performance targets, improvement measures and reporting arrangements which relate to integration functions	The process to be used to prepare a list of all targets, measures and arrangements which relate to integration functions and for which responsibility will transfer, in full or in part, to the integration authority, to include a statement of the extent to which responsibility for each target, measure or arrangement is to transfer to the integration authority.

Performance targets, improvement measures and reporting arrangements which relate to functions of the local authority and Health Board which are not integration functions	The process to be used to prepare a list of any targets, measures and arrangements which must be taken account of by the integration authority when it is preparing a strategic plan but which relate to functions of the Health Board or local authority which are not integration functions.
Clinical and Care Governance of services provided in pursuance of integration functions.	The arrangements for clinical governance and care governance which will apply to services provided in pursuance of integrated functions Details of how these arrangements will provide oversight of, and advice to, the integration authority in relation to clinical and care governance. Details of how these arrangements will provide oversight of, and advice to, the strategic planning group in relation to clinical and care governance. Details of how these arrangements will provide oversight of and advice in relation to the clinical and care governance of the delivery of health and social care services in the localities identified in the strategic plan. Information on how the clinical and care governance arrangements which apply in relation to the functions of the local authority and Health Board will interact with the clinical and care governance arrangements to be established in respect of integration functions. Information about the role of senior professional staff of the Health Board and the local authority in the clinical and care governance arrangements for integrated functions. Information about how the clinical and care governance arrangements set out in the scheme relate to the arrangements for the involvement of professional advisors in the integration joint board.
The operational role of the chief officer	Information on the structure and procedures which will be used to enable the chief officer to work together with the senior management of the constituent authorities to carry out functions in accordance with the strategic plan.

The line management arrangements for the chief officer	A description of the line management arrangements which the constituent authorities will put in place to ensure that the chief officer of the integration joint board is accountable to each of the constituent authorities.
Plans for workforce development	A list of the plans that the Health Board and local authority will develop and put in place to support such of its staff as are employed in relation to services provided in pursuance of integration functions including at least: (i) a plan relating to the development and support to be provided to the workforce; and (ii) a plan relating to the organisational development of the Health Board, local authority and, as the case may be, the integration joint board, in relation to integration functions.
The transfer of staff between the constituent authorities of an integration joint board.	Where, in connection with the delegation of functions by the constituent authorities, any members of staff of a constituent authorities are to transfer to the employment of another constituent authority the approximate number of staff who are to transfer.
Financial management of an integration joint board	A statement of which constituent authority will maintain financial ledgers for the purpose of recording the transactions of the integration joint board. A statement of the arrangements that the Health Board and local authority have agreed will be made for the preparation of annual accounts, the financial statement prepared under section 39 of the Act, the financial elements of the strategic plan, and such reports on financial matters as the integration joint board may require in relation to the exercise of its functions.
Payments to the integration joint board	Information about the process that the constituent authorities will use to agree a schedule of the amounts and dates of payments to be made to the integration joint board by the constituent authorities for each financial year.
Financial reporting to the integration joint board and chief officer by the constituent authorities.	The frequency with which each constituent authority is required to provide financial monitoring reports to the integration joint board and the chief officer for the purpose of financial monitoring of the carrying out of

	integration functions. The frequency with which the Health Board is required to provide financial monitoring reports to the integration joint board and the chief officer in relation to amounts which have been set aside for use by the integration authority. The agreed content of the financial monitoring reports.
Financial management of an integration authority which is a Health Board, a local authority, or a Health Board and local authority acting jointly	A statement of the arrangements which are to be made for hosting the financial ledgers for recording the transactions of the integration authority, including in particular the details of any temporary or transitional arrangements.
Payments to of an integration authority which is a Health Board, a local authority, or a Health Board and local authority acting jointly	Information about the process that the Health Board and local authority will use to agree a schedule of the amounts and dates of payments to be made to the integration authority for each financial year.
Financial reporting to an integration authority which is a Health Board, a local authority, or a Health Board and local authority acting jointly	The frequency with which the integration authority is required to provide financial monitoring reports to the Health Board or, as the case may be, the local authority. The agreed content of the financial monitoring reports.
Financial reporting to an integration authority which is a local authority or a Health Board and local authority acting jointly.	The frequency with which the Health Board is required to provide financial monitoring reports to the integration authority in relation to amounts which have been set aside for use by the integration authority. The agreed content of the financial monitoring reports.
The process for addressing variance in the spending of the integration authority.	The process to manage in-year or year-end underspend or overspend by the integration authority in relation to the amounts paid to it, or amounts set aside for use by it, for delivery of integration function.
Redetermination of payments to, and amounts set aside for the use of, the integration authority	The method by which any variations to the amounts determined under the methods set out in the scheme by virtue of section 1(3)(d) and (e) of the Act will be determined, including the conditions which will require to be met before variations may be made.

The use of capital assets in relation to integration functions	The process which will be followed by the Health Board, local authority and integration authority to determine the use of capital assets of the local authority and Health Board in relation to integration functions.
Participation and engagement	The list of person, groups of persons and representatives of groups of persons consulted in the development of the integration scheme. Details of the means by which the consultation required by section 6(2) of the Public Bodies (Joint Working) (Scotland) Act 2014 was undertaken in the development of the integration scheme. The process for developing a strategy for engagement with members of the public, representative groups or other organisations by the Health Board, local authority and integration authority in relation to the carrying out of integration functions and the decisions taken by the integration authority.
Information sharing and data handling	An information sharing accord, including in particular the principles to which the local authority, Health Board and, as the case may be, integration joint board, will adhere in relation to the sharing of information in connection with their functions under the Act and the integration functions. The process and procedures that will apply to the sharing of information between the local authority, Health Board and integration authority.
Complaints in relation to services provided in pursuance of integration functions.	The arrangements for management of complaints relating to services provided in pursuance of integration functions, to include in particular information on the process by which a service user may make a complaint.
Handling of claims against the Health Board, local authority or integration authority in relation to integration functions	The arrangements for the management and settlement of claims arising from the exercise of integration functions, and any arrangements which will be made for indemnity, between the Health Board and local authority, in relation to such claims.
Risk management	Information on the risk management strategy which will be applied by the Health Board, local authority and integration authority in relation to the carrying out of integration functions, including in particular information on how a risk management procedure will be

	developed and information on the resources which will be made available by the local authority and Health Board to support risk management. Information on the way in which the local authority, Health Board and, as the case may be, the integration joint board will produce a list of the risks to be reported under the risk management strategy including provision for the list to be amended.
Dispute resolution	The procedure that will be used to resolve any dispute between the local authority and Health Board in relation to any of the matters provided for in the integration scheme or any of the duties or powers placed on them by the Act.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe matters, and information about those matters, that must be included in an integration scheme (a "scheme") prepared under section 1(2), 2(3) or 2(4) of the Public Bodies (Joint Working) Scotland Act 2014.

Article 2, together with the schedule, sets out the requirement to include the prescribed information about the prescribed matters in a scheme. Column A of the schedule sets out the prescribed matters that must be included in the scheme, and Column B sets out the prescribed information that the scheme must include. Column A makes provision for certain matters to be prescribed only when they are relevant to the other content of the integration scheme, in particular the integration model that the parties have chosen to use, as set out in the scheme.

Article 3 sets out that the prescribed information included in the scheme must be such information as has been agreed between the Health Board and local authority preparing the scheme.

Article 4, in exercise of the powers in section 20 of the Public Bodies (Joint Working) Scotland Act 2014, sets out that the effect of prescribed information being included in the scheme is to require the Health Board and local authority who prepare the scheme, and the integration joint board or as the case may be integration joint monitoring committee established in pursuance of the scheme, to act in accordance with the provisions of the scheme.

ANNEX 1(C)

The Scottish Government
Riaghaltas na h-Alba

PROPOSALS FOR PRESCRIBED INFORMATION TO BE INCLUDED IN THE INTEGRATION SCHEME 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	**Phone**	**Email**
G82 3PU	01389 737321	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)

PROPOSALS FOR PRESCRIBED INFORMATION TO BE INCLUDED IN THE INTEGRATION SCHEME RELATING TO THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

CONSULTATION QUESTIONS

1. Do you agree with the prescribed matters to be included in the Integration Scheme?

   Yes [X]

   No [ ]

2. If no, please explain why:

3. Are there any additional matters that should be included within the regulations?

   Yes [ ]

   No [X]

4. If yes, please suggest:

   It would be helpful to specify budget setting for HSCP – possibly expanding statement on "payments to integration joint board" – in Prescribed Matters.

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

   As an already fully integrated health and social care partnership, West Dunbartonshire Community Health & Care Partnership (CHCP) is particularly well-placed to comment on the national proposals, reflective of our actual experience of working to realise the benefits of integration in practice and our current status as a Shadow HSCP (overseen by a Shadow Integration Joint Board).

   We broadly support the draft regulations and look forward to final version being further refined. We would argue though that too much of the regulations are over-prescriptive in terms of rigid structures, process and procedures. This is particularly relevant for those HSCPs which are responsible for more that the de minimis/"must be delegated" services. 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 have to be invited to attend 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 Integration Joint Board to hold the Chief Officer to account for how the HSCP does that within the context of local Community Planning arrangements.

We particularly welcome the clarity provided in respect of the Chief Officer's role for financial governance, and the consequential support that other relevant senior officers from the "parent" organisations have to then provide the Chief Officer in order that they can transparently discharge that responsibility in a locally appropriate manner. In a similar vein, the regulations would be improved by clarifying the responsibilities and obligations on those individuals fulfilling specific professional functions (particularly in respect of clinical and care governance) to provide advice and support to the Chief Officer and the Integration Joint Board, alongside their traditional responsibilities in supporting either respective Chief Executives and Councils or the NHS Boards. So, for example, where the Chief Social Work Officer (CSWO) function is not being discharged by the Chief Officer, then the CSWO (whether they are a member of the HSCP management team or not) should support the Chief Officer and the Integration Joint Board in a similar fashion to how the legislation currently requires them to support local authority chief executives and Councils. A similar approach should sensibly be adopted by the relevant "corporate" executive directors of the NHS Board (i.e. Medical Director, Director of Nursing and Director of Public Health), either by those individuals directly or through some arrangement (agreed by the Integration Joint Board and Chief Officer) whereby they discharge their responsibilities to support the effective functioning of the HSCP through appropriately qualified and specified members of staff (who have a "dotted line" accountability to the Chief Officer at a local level to reflect their being seen to be part of the local HSCP team).

The list of prescribed functions to be delegated would be strengthened by:

1. Being clearer about functions (rather than ill-defined service headings).
2. Being clearer about those functions whereby the Chief Officer and Integration Joint Board have sole responsibility – e.g. homecare and district nursing – and those where it will likely be one of a number of bodies providing contributing attention and resources (e.g. domestic violence). In respect of the latter, it may be clearer for all of those types of functions to be located in the "may be delegated" list rather than "must be delegated".
3. Differentiating where the HSCP and Integration Joint Board are the lead for the strategic planning and accountable for the delivery of a function (either directly or via another body); and those areas where other bodies will be obliged to include the HSCP (and evidences how they have responded to its contribution) in their strategic planning processes. In respect of the latter, we would suggest that the wider housing support function of councils would be better articulated in this manner to mirror the relationship of the HSCP with the Acute Division of NHS Health Boards.

In respect of the health and wellbeing outcomes, the indicators currently drafted are too heavily weighted towards subjective/experiential ones; of limited value for on-going and in-year performance management by Integration Joint Boards (as data not readily and timeously available); and some are of questionable fairness in IJB holding Chief Officer solely accountable for (or indeed of Scottish Government, Council's or NHS Boards holding Integration Joint Boards to account for) given that they are wicked issues, e.g. health inequalities.

The Schedule within the draft regulations might be more straightforward to apply if it was worded in a manner that more clearly and consistently set out the requirements on all Integration Authorities; and then which requirements were then specific to either an integration joint board or to an integration joint monitoring committee.

ANNEX 2(A)

PROPOSALS FOR PRESCRIBED FUNCTIONS THAT MUST BE DELEGATED BY LOCAL AUTHORITIES RELATING TO THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014 (*Section 1(7)*)

CONSULTATION PAPER

Section 1(7) of the Public Bodies (Joint Working) (Scotland) Act 2014 provides for Scottish Ministers to prescribe in Regulations the functions of a Local Authority which must be delegated to the Integration Authority.

The Act restricts the range of Local Authority functions that can be delegated. The range of functions which may be delegated (and which, broadly, relate to social care) is set out in the schedule in the Act.

The Act confers a power on Scottish Ministers' to require the delegation of certain functions insofar as they relate to persons of at least 18 years old. Scottish Ministers may prescribe, in regulations, the functions that must be delegated. Only functions which are included in the schedule to the Act may be prescribed.

The legal framework that confers "social care" functions on Local Authorities can be found across a wide range of legislation. These functions are considered by Scottish Ministers to be key to the establishment and promotion of a comprehensive and integrated health and social care service across Scotland.

Local Authorities, with partner organisations, purchase and provide a wide range of social work and social care services in order to carry out their legal functions. These services include services to children, young people, adults and families, promoting empowerment, independence, safety and protection. Services are provided for people of all ages, and their carers, who have a range of care and support needs. Across all care groups, while some individuals receive a service voluntarily, others will have social work involvement as a result of statutory responsibilities.

Social work and social care services support some of the most vulnerable people in our society. These services aim to be person centred and community based, with the purpose of promoting and improving, independence and social inclusion. Services which are aimed at increasing an individual's quality of life, self-care and resilience, and at mitigating the effects of poverty, illness and disability also seek to prevent the inappropriate use of more intensive services.

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

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

ANNEX 2(B)

PROPOSALS FOR PRESCRIBED FUNCTIONS THAT MUST BE DELEGATED BY LOCAL AUTHORITIES RELATING TO THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

Draft Regulations laid before the Scottish Parliament under section 69(2) of the Public Bodies (Joint Working) (Scotland) Act 2014, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2014 No.

HEALTH, SOCIAL CARE

The Public Bodies (Joint Working) (Prescribed Local Authority Functions) (Scotland) Regulations 2014

Laid before the Scottish Parliament in draft

Made - - - - ***

Coming into force - - *in accordance with article 1*

The Scottish Ministers make the following Regulations in exercise of the powers conferred on them by sections 1(7) and 69(1)(b) 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) (Prescribed Local Authority Functions)(Scotland) Regulations 2014 and come into force on *(tbc)*.

Prescribed functions

2. The functions conferred by or by virtue of enactments listed in column A of the table in the Schedule are prescribed for the purposes of section 1(7) of the Public Bodies (Joint Working) (Scotland) Act 2014.

3. Where an entry in column B of the table specifies a limitation in relation to a function listed in column A, that function is prescribed only to that extent.

4.The parenthetical description of each function listed in the schedule is given for illustrative purposes only and does not restrict the extent to which that function is prescribed.

Name
A member of the Scottish Government

St Andrew's House,
Edinburgh

(a) 2014 asp 9. Section 68 contains a definition of "prescribed" relevant to the exercise of the statutory powers under which these Regulations are made.

SCHEDULE

Column A *Enactment conferring function*	*Column B* *Limitation*
National Assistance Act 1948	
Section 22 (The fixing of a standard rate to be paid for accommodation provided under Part III of that Act or accommodation regarded as provided under that Part(a),the assessment of a person's ability to pay that rate and the determination of a lower rate to be paid for such accommodation.)	
Section 26 (The inclusion in arrangements for accommodation of provision for payment in respect of the accommodation, the determination of the rate of payment, and the recovery of amounts from the persons for whom accommodation is provided.)	
Section 45 (The recovery of expenditure incurred under Part III of that Act where a person has fraudulently or otherwise misrepresented or failed to disclose a material fact.)	
Section 48 (The protection of property of a person admitted to hospital or accommodation provided under Part III of that Act.)	
The Disabled Persons (Employment) Act 1958	
Section 3 (The making of arrangements for the provision of facilities for the purposes set out in section 15(1) of the Disabled Persons (Employment) Act 1944.)	
The Social Work (Scotland) Act 1968	
Section 1 (The enforcement and execution of the provisions of the Social Work (Scotland) Act	So far as it is exercisable in relation to another delegated function.

(a) By virtue of section 87(3) of the Social Work (Scotland) Act 1968, accommodation provided under that Act or under section 25 of the Mental Health (Care and Treatment) (Scotland) Act 2003 is regarded as accommodation provided under Part III of the 1948 Act

1968.)

Section 4 (The making of arrangements with voluntary organisations or other persons for assistance with the performance of certain functions.)	So far as it is exercisable in relation to another delegated function.
Section 8 (The conducting of, or assisting with research in connection with functions in relation to social welfare and the provision of financial assistance in connection with such research.)	So far as it is exercisable in relation to another delegated function.
Section 10 (The making of contributions by way of grant or loan to voluntary organisations whose sole or primary object is to promote social welfare and making available for use by a voluntary organisation premises, furniture, equipment, vehicles and the services of staff.)	So far as it is exercisable in relation to another delegated function.
Section 12 (The promotion of social welfare and the provision of advice and assistance.)	
Section 12A (The assessment of needs for community care services, the making of decisions as to the provision of such services and the provision of emergency community care services.)	
Section 12AZA (The taking of steps to identify persons who are able to assist a supported person with assessments under section 12A and to involve such persons in such assessments.)	
Section 12AA (The compliance with a request for an assessment of a carer's ability to provide or to continue to provide care.)	
Section 12AB (The notification of carers as to their entitlement to make a request for an assessment under section 12AA.)	
Section 13 (The assistance of persons in need with the disposal of their work.)	
Section 13ZA (The taking of steps to help an incapable adult to benefit from community care services.)	

Section 13A (The provision, or making arrangements for the provision, of residential accommodation with nursing.)	
Section 13B (The making of arrangements for the care or aftercare of persons suffering from illness.)	
Section 14 (The provision or arranging the provision of domiciliary services and laundry services.)	
Section 28 (The burial or cremation of deceased persons who were in the care of the local authority immediately before their death and the recovery of the costs of such burial or cremation.)	
Section 29 (The making of payments to parents or relatives of, or persons connected with, persons in the care of the local authority or receiving assistance from the local authority, in connection with expenses incurred in visiting the person or attending the funeral of the person.)	
Section 59 (The provision of residential and other establishments.)	So far as it is exercisable in relation to another delegated function
Section 86 (The recovery of expenditure incurred in the provisions of accommodation, services, facilities or payments for persons ordinarily resident in the area of another local authority from the other local authority.)	So far as it is exercisable in relation to another delegated function
Section 87 (The recovery of charges for services and accommodation provided by a local authority.)	So far as it is exercisable in relation to another delegated function

The Local Government and Planning (Scotland) Act 1982

Section 24 (The provision, or making arrangements for the provision, of gardening assistance and the recovery of charges for such assistance.)	

Health and Social Services and Social Security Adjudications Act 1983

Section 21

(The recovery of amounts in respect of accommodation provided under the Social Work (Scotland) Act 1968 or Section 25 of the Mental Health (Care and Treatment)(Scotland) Act 2003.)

Section 22
(The creation of a charge over land in England or Wales where a person having a beneficial interest in such land has failed to pay a sum due to be paid in respect of accommodation provided under the Social Work (Scotland) Act 1968 or Section 25 of the Mental Health (Care and Treatment)(Scotland) Act 2003.)

Section 23
(The creation of a charging order over an interest in land in Scotland where a person having such an interest has failed to pay a sum due to be paid in respect of accommodation provided under the Social Work (Scotland) Act 1968 or Section 25 of the Mental Health (Care and Treatment)(Scotland) Act 2003.)

Disabled Persons (Services, Consultation and Representation) Act 1986

Section 2
(The making of arrangements in relation to an authorised representative of a disabled person and the provision of information in respect of an authorised representative.)

Section 3
(The provision of an opportunity for a disabled person or an authorised representative of a disabled person to make representations as to the needs of that person on any occasion where it falls to a local authority to assess the needs of the disabled person for the provision of statutory services by the authority, the provision of a statement specifying the needs of the person and any services which the authority proposes to provide, and related duties.)

Section 7
(The making of arrangements for the assessments of the needs of a person who is discharged from hospital.)

In respect of the assessment of need for any services provided under functions contained in welfare enactments within the meaning of section 16 and which have been delegated.

Section 8
(Having regard, in deciding whether a disabled person's needs call for the provision of services, to the ability of a person providing unpaid care to the disabled person to continue to provide such care.)

In respect of the assessment of need for any services provided under functions contained in welfare enactments within the meaning of section 16 which have been delegated.

The Housing (Scotland) Act 1987

Section 5
(The provision of facilities for obtaining meals and laundry facilities and services in connection with the provision of accommodation by a local authority under section 2 of the Housing (Scotland) Act 1987).)

The Adults with Incapacity (Scotland) Act 2000

Section 10
(The general functions of a local authority under the Adults with Incapacity (Scotland) Act 2000.)

Section 12
(The taking of steps in consequence of an investigation carried out under section 10(1)(c) or (d).)

Sections 37, 39 and 41-45
(The management of the affairs, including the finances, of a resident of an establishment managed by a local authority.)

Only in relation to residents of establishments which are managed under delegated functions.

The Housing (Scotland) Act 2001

Section 92
(The promotion of the formation or development of registered social landlords and the provision of assistance to a registered social landlord or any other person concerned with housing matters.)

The Community Care and Health (Scotland) Act 2002

Section 4
(The functions conferred by Regulation 2 of the Community Care (Additional Payments) (Scotland) Regulations 2002 in relation to the provision, or securing the provision, of relevant accommodation.)

Section 5
(The making of arrangements for the provision of residential accommodation outside Scotland.)

Section 6
(Entering into deferred payment agreements for the costs of residential accommodation.)

Section 14
(The making of payments to an NHS body in connection with the performance of the functions of that body.)

The Mental Health (Care and Treatment) (Scotland) Act 2003

Section 17
(The provision of facilities to enable the carrying out of the functions of the Mental Welfare Commission.)

Section 25
(The provision of care and support services for persons who have or have had a mental disorder.)

Section 26
(The provision of services designed to promote well-being and social development for persons who have or have had a mental disorder.)

Section 27
(The provision of assistance with travel for persons who have or have had a mental disorder.)

Section 33
(The duty to inquire into a person's case in the circumstances specified in 33(2).)

Section 34
(The making of requests for co-operation with inquiries being made under section 33(1) pf that Act.)

Section 228
(The provision of information in response to requests for assessment of the needs of a person under section 12A(1)(a) of the Social Work (Scotland) Act 1968.)

Section 259
(The securing of independent advocacy services for persons who have a mental disorder.)

The Housing (Scotland) Act 2006

Section 71
(The provision of assistance in connection with the acquisition or sale of property or work on land or in premises for the purposes mentioned in section 71(2).)

The Adult Support and Protection (Scotland) Act 2007

Section 4
(The making of enquiries about a person's well-being, property or financial affairs.)

Section 5
(The co-operation with other councils, public bodies and office holders in relation to inquiries made under section 4.)

Section 6
(The duty to have regard to the importance of providing advocacy services.)

Section 11
(The making of an application for an assessment order.)

Section 14
(The making of an application for a removal order.)

Section 18
(The taking of steps to prevent loss or damage to property of a person moved in pursuance of a removal order.)

Section 22
(The making of an application for a banning order.)

Section 40
(The making of an application to the justice of the peace instead of the sheriff in urgent cases.)

Section 42
(The establishment of an Adult Protection Committee.)

Section 43
(The appointment of the convener and members of the Adult Protection Committee.)

Social Care (Self-directed Support) (Scotland) Act 2013

Section 3
(The consideration of an assessment of an adults ability to provide or continue to provide care for another person and the making of a decision as to whether an adult has needs in relation to care that the adult provides for another person, the decision as to whether support should be provided to that adult in

relation to those needs, and the provision of that support.)	
Section 5 (The giving of the opportunity to choose a self-directed support option.)	
Section 6 (The taking of steps to enable a person to make a choice of self-directed support option.)	
Section 7 (The giving of the opportunity to choose a self-directed support option.)	
Section 9 (The provision of information.)	
Section 11 (Giving effect to the choice of self-directed support option.)	
Section 12 (Review of the question of whether a person is ineligible to receive direct payments.)	
Section 13 (Offering another opportunity to choose a self-directed support option.)	Only in relation to a choice under section 5 or 7 of the Act.
Section 16 (The recovery of sums where a direct payment has been made to a person and the circumstances set out in section 16(1)(b) apply.)	
Section 19 (Promotion of the options for self-directed support.)	

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe certain functions of local authorities for the purpose of section 1(7) of the Public Bodies (Joint Working) (Scotland) Act 2014 ("the 2014 Act").

The 2014 Act requires Health Boards and local authorities to agree arrangements for joint working in their area in relation to certain of their statutory functions. This will have the effect that adult health and social care services are provided, in all local authority areas, in a way which is integrated from the point of view of a person using those services. These joint working arrangements will involve the delegation of functions by a local authority, or by the Health Board, or both. Where a local authority is to delegate functions it must delegate the prescribed functions and may also delegate additional functions as provided for by the 2014 Act.

Regulation 2 introduces the schedule to the Regulations, column A of which contains a list of the enactments which confer prescribed functions. Regulation 3 describes the effect of the limitations on the prescription of certain functions which are set out in column B of the schedule.

The functions prescribed by virtue of these Regulations may be broadly described as relating to social care services provided by local authorities. The effect of prescribing these functions is that in every local authority area in scotland, the statutory functions relating to adult social care services will be held by the same body as holds statutory functions relating to adult primary and community health services.

The social care services that are provided under the prescribed functions include social work services for adults, including adults with physical disabilities or learning disabilities; social work services for older people, mental health services, drug and alcohol support services, adult protection services, housing support service and health improvement services.

ANNEX 2(C)

The Scottish Government
Riaghaltas na h-Alba

PROPOSALS FOR PRESCRIBED FUNCTIONS THAT MUST BE DELEGATED BY LOCAL AUTHORITIES 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**

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

(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).

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

Please tick ONE of the following boxes	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
16. Other – please specify	Community Health & Care Partnership

ANNEX 2(D)

PROPOSALS FOR PRESCRIBED FUNCTIONS THAT MUST BE DELEGATED BY LOCAL AUTHORITIES RELATING TO THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

CONSULTATION QUESTIONS

1. Do you agree with the list of Local Authority functions included here which must be delegated?

Yes ☐

No ☒

2. The list of prescribed functions to be delegated ought to be:
   1. Clearer about functions (rather than ill-defined service headings, e.g. local area co-ordination and health improvement services).
   2. Clearer about those functions whereby the Chief Officer and Integration Joint Board have sole responsibility – e.g. homecare – and those where it will likely be one of a number of bodies providing contributing attention and resources (e.g. domestic violence). In respect of the latter, it would be clearer for all of those types of functions to be located in the "may be delegated" list rather than "must be delegated", not least to underline the wider partnership approach to their delivery.
   3. Differentiate where the HSCP and Integration Joint Board are the lead for the strategic planning and accountable for the delivery of a function (either directly or via another body); and those areas where other bodies will be obliged to include the HSCP (and evidences how they have responded to its contribution) in their strategic planning processes. In respect of the latter, we would suggest that the wider housing support functions of councils would be better articulated in this manner to mirror the relationship of the HSCP with the Acute Division of NHS Health Boards.

   Adult Sensory Impairment and Care at Home functions should be clearly incorporated into the "must delegate" list.

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

   Strongly support the inclusion of drug and alcohol responsibilities as included here.

ANNEX 3(A)

PROPOSALS FOR REGULATIONS PRESCRIBING FUNCTIONS THAT MAY OR THAT MUST BE DELEGATED BY A HEALTH BOARD UNDER THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014 *(Section 1(6) & 1(8))*

CONSULTATION PAPER

The proposed Regulations prescribe those functions of a Health Board that may be delegated under an Integration Scheme, and those functions of a Health Board that must be delegated under an Integration Scheme .

Schedule 1 sets out all healthcare functions that **may** be delegated.

The functions which **must** be delegated under an Integration Scheme are those functions listed in Schedule 1 but only to the extent that they are exercised in relation to healthcare services.

This approach takes account of the fact that healthcare functions are defined very broadly under legislation. By setting out which healthcare services must be included within the integrated arrangement, the regulations provide the specificity that Scottish Ministers believe is necessary to ensure that integration is delivered consistently and at appropriate scale across Scotland.

Healthcare services that must be integrated

These regulations set out that a Health Board **must** delegate all of its functions as they relate to adult primary and community health services, along with a proportion of hospital sector provision, to support whole system re-design in favour of preventative and anticipatory care in communities. This approach builds upon work in Community Health Partnerships (CHPs); all services already within the scope of CHP arrangements must be delegated to Integration Authorities.

A narrative description of the services listed in Schedule 2, i.e. the healthcare services that **must** be integrated, is provided in the table that accompanies this introduction, below.

Healthcare services that may be integrated

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

Some aspects of healthcare functions need to be included in the "must" list in order to deliver the policy intention of integration, which nonetheless cannot readily be included for practical reasons.
For example, non-cash limited expenditure on pharmaceutical services is not currently disaggregated below Health Board level. As a result, unless the Integration Authority is coterminous with the Health Board, it is not currently possible to identify the resources for these services that are used by local populations, and it would be

unreasonable for these Regulations to require their delegation under an Integration Scheme. Similar challenges apply to General Dental Services and General Ophthalmic Services.

Where this is the case, we have included within the "must" list those services that **can** be disaggregated to individual Integration Authority areas, and which we believe should be part of the integrated arrangement. Services that cannot be disaggregated at this time are on the "may" list so that they may be included at local discretion when data allowing disaggregation becomes available in due course. In time, we anticipate that modifications to these aspects of the Regulations may be required, to keep pace with integration locally.

Healthcare services that may not be integrated

Those functions of a Health Board that are considered unsuitable for delegation under an Integration Scheme relate to matters such as the provision of regional and national health services, education and research facilities of Health Boards, and some specific duties such as the registration of health professionals.

Hospital functions and budgets, and operational delivery within hospitals

With specific reference to hospital functions and budgets that must be delegated to Integration Authorities, Scottish Ministers intend that Regulations should ensure that the following objectives are achieved:

- The emergency care pathway must be included within the scope of integrated strategic planning, as part of whole system redesign in favour of preventative and anticipatory care;

- It will be important to assure a single system vision for integrated strategic planning, built particularly around the needs of patients and service users with multimorbidity;

- It will be important to enable effective commissioning of acute services across different Integration Authorities within a single Health Board area, to facilitate effective, efficient deployment of NHS resources.

In terms of hospital provision, the focus is therefore on including unscheduled hospital care within the scope of integrated strategic planning, which is the responsibility of the Integration Authority. The approach requires that specialities that exhibit a predominance of unplanned bed day use for adults are included as a minimum.

In terms of operational management within hospitals for these services, the legislation provides flexibility for local decisions that are appropriate to local circumstances. While some aspects of hospital activity and expenditure must be included within integrated strategic planning, as noted above, it is our expectation that in many cases day-to-day operational management of hospital services will remain within Health Board hospital management arrangements, with close working arrangements in place between the Chief Officer and the hospital sector to assure congruence between operational delivery and services set out in the Strategic Plan.

Table: Health services that must be included within integration

This table lists services that **must** be included within the scope of integrated strategic planning, as part of whole system redesign in favour of preventative and anticipatory care in communities.

In each case, integration must include all **adult** provision; inclusion of children's services in integrated arrangements is left to the discretion of local partners. Additional services covered by the list of functions that **may** be included in integration can, of course, also be delegated locally.

Note that, where "patient's home" is referred to as a place where a service is delivered, this includes care homes.

Service	What does the service involve?	Who provides the service?	Why is the service provided?	Where is the service delivered?
Unplanned inpatients	Medical care for urgent or emergency conditions in relevant specialities, to be described in statutory guidance	Doctors, nurses, AHPs	To provide assessment, investigation, diagnosis, care planning and treatment of patients who have had an unplanned admission to hospital	In hospital and on occasion part of that care may be provided in the community in 'step-up' and step-down' beds
Outpatients - Accident & Emergency	Medical care for urgent or emergency conditions, not requiring hospital admission	Doctors, nurses, AHPs, dentists and dental care professionals	To review patients seen in A&E with minor problems who do not require admission but do require review	In hospital
Care of Older People (previously known as geriatric medicine)	Medical care for older people, to the extent not covered by unplanned admissions	Doctors, nurses, AHPs, dentists and dental care professionals	To provide assessment, investigation, diagnosis, care planning and treatment of older people	In hospital, surgeries and community clinics

Service	What does the service involve?	Who provides the service?	Why is the service provided?	Where is the service delivered?
District Nursing	Full range of nursing services	Nurses	To provide assessment, investigation, diagnosis, care planning and treatment of patients	In surgeries, community clinics and patients' homes
Health Visiting	Full range of health visiting services, as they apply to adults	Health visitors	To provide assessment, care and protection of children (where relevant) and older people	In surgeries, community clinics, and patients' homes
Clinical Psychology	Full range of clinical psychology services	Clinical psychologists, clinical psychology assistants	To provide assessment, investigation, diagnosis, care planning and treatment of patients with psychological problems and distress	In hospital, community clinics, surgeries and patients' homes
Community Mental Health Teams	Full range of services for those with mental health problems **Note**: Integration Authorities should have a coordination and governance role in relation to more specialist mental health services that the population may require	Doctors, nurses, pharmacists, AHPs	To provide assessment, investigation, diagnosis, care planning and treatment of patients with mental health problems and psychological distress	In community clinics, surgeries and patients' homes
Community Learning Difficulties Team	Full range of services for those with a learning difficulty	Doctors, nurses, pharmacists, AHPs	To provide assessment, investigation, diagnosis, care planning and treatment of patients with learning difficulties	In community clinics, surgeries and patients' homes

Service	What does the service involve?	Who provides the service?	Why is the service provided?	Where is the service delivered?
Addiction Services	Full range of services, inpatient and outpatient, for those with addictions	Doctors, nurses, pharmacists, AHPs	To provide assessment, investigation, diagnosis, care planning and treatment of patients with addictions	In hospital, community clinics, surgeries and patients' homes
Women's Health Services (includes family planning services)	Full range of well woman and family planning services	Doctors, nurses	To provide assessment, investigation, diagnosis, care planning and treatment of women's health, sexual health and contraception (family planning) services	In hospital, community clinics, surgeries and patients' homes
Allied Health Profession Services	Full range of services delivered by all the allied health professionals	Allied Health Professionals	To provide assessment, investigation, diagnosis, care planning and treatment of patients	In hospital, community clinics, surgeries and patients' homes
GP Out-of-Hours	Assessment, treatment and sometimes referral on to specialist care, of those who present with urgent or emergency care needs in the out of hours period	Doctors, nurses	To provide assessment, investigation, diagnosis, care planning and treatment of patients	In out-of-hours centres (hospitals and community clinics) and patients' homes
Public Health Dental Service (previously known as community dental services)	Dental services	Dentists, dental care professionals	To provide assessment, investigation, diagnosis, care planning and treatment of patients	In hospitals, surgeries, community clinics, and patients' homes

Service	What does the service involve?	Who provides the service?	Why is the service provided?	Where is the service delivered?
Continence Services	Assessment, investigation, diagnosis and treatment of those with continence problems	Nurses, technicians	To provide assessment, investigation, diagnosis, care planning and treatment of patients	In community clinics, surgeries and patients' homes
Home Dialysis	Usually patients manage this themselves but some may need nursing assistance to carry out their own renal dialysis	Patients, nurses	To support those who self-manage dialysis in their own homes	In patients' homes
Health Promotion	All aspects of health promotion activity for lifestyle advice, screening for early disease	Doctors, nurses, AHPs, pharmacists, dentists, dental care professionals	To provide all aspects of health promotion, lifestyle and health improvement services	In surgeries, community clinics, and patients' homes
General Medical Services (GMS)	Full range of services provided by general medical practitioners and their teams	Doctors, nurses, Health care assistants, phlebotomists	To provide the full range of general medical services as set out in legislation and guidance, including to the assessment, investigation, diagnosis, anticipatory care, care planning and treatment of patients	In surgeries, community clinics, and patients' homes
Pharmaceutical services - GP prescribing	Prescribing and dispensing of all medication and therapeutic agents	GPs, nurse prescribers, prescribing pharmacists working in GP practices	To provide the full range of prescribing services set out in legislation and guidance	In surgeries, community clinics, and patients' homes

ANNEX 3(B)

PROPOSALS FOR REGULATIONS PRESCRIBING FUNCTIONS THAT MAY OR THAT MUST BE DELEGATED BY A HEALTH BOARD UNDER THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

*Draft Regulations laid before the Scottish Parliament under section *** of the *** Act ***, for approval by resolution of the Scottish Parliament.*

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2014 No.

HEALTH, SOCIAL CARE

The Public Bodies (Joint Working) (Prescribed Health Board Functions) (Scotland) Regulations 2014

Laid before the Scottish Parliament in draft

Made - - - - ***

Coming into force - - *in accordance with article 1*

The Scottish Ministers make the following Regulations in exercise of the powers conferred on them by sections 1(6) and (8), and 69 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) (Prescribed Health Board Functions) (Scotland) Regulations 2014 and come into force on [*date tbc*].

Prescribed functions

2.—(1) The functions listed in Schedule 1 are prescribed for the purposes of sections 1(6) and 1(8).

(2) Each function prescribed for the purposes of section 1(8) is prescribed for that purpose only to the extent that—

(a) it is exercisable in relation to persons of at least 18 years of age; and

(b) it is exercisable in relation to the services listed in Schedule 2.

Name
A member of the Scottish Government

St Andrew's House,
Edinburgh
[*Date*]

(a) TBC

SCHEDULE 1

Functions prescribed for the purposes of section 1(6) and 1(8) of the Act

The National Health Service (Scotland) Act 1978

All functions of health boards conferred by, or by virtue of, the National Health Service (Scotland) Act 1978, other than Section 2CB(1) and (2) (provision of a service outside Scotland); Section 17L(1) (power to enter into a general medical services contract); Section 47(1) (duty to make available such facilities as appear reasonably necessary for education and research).

Disabled Persons (Services, Consultation and Representation) Act 1986

Section 7 (making of arrangements for the assessments of the needs of a person who is discharged from hospital).

Community Care and Health (Scotland) Act 2002

All functions of health boards conferred by, or by virtue of, the Community Care and Health (Scotland) Act 2002.

Mental Health (Care and Treatment) (Scotland) Act 2003

All functions of health boards conferred by, or by virtue of, the Mental Health (Care and Treatment) (Scotland) Act 2003 other than Section 22 (requirement to maintain a list of medical practitioners).

Education (Additional Support for Learning) (Scotland) Act 2004

Section 23 (co-operating with education authority).

Civil Contingencies Act 2004

All functions of health boards conferred by, or by virtue of, the Mental Health (Care and Treatment) (Scotland) Act 2003.

National Health Service Reform (Scotland) Act 2004

All functions of health boards conferred by, or by virtue of, the National Health Service Reform (Scotland) Act 2003.

Public Health etc. (Scotland) Act 2008

All functions of health boards conferred by, or by virtue of, the Public Health etc. (Scotland) Act 2008 other than section 3 (designation of competent persons).

Certification of Death (Scotland) Act 2011

All functions of health boards conferred by, or by virtue of, the Certification of Death (Scotland) Act 2011.

Patient Rights (Scotland) Act 2011

All functions of health boards conferred by, or by virtue of, the Patient Rights (Scotland) Act 2011.

Public Services Reform (Scotland) Act 2010

All functions of health boards conferred by, or by virtue of, the Public Services Reform (Scotland) Act 2010.

SCHEDULE 2

Services to which functions prescribed under section 1(8) relate

Unplanned inpatients
(Medical care for the treatment of urgent or emergency conditions that require an unplanned admission to hospital)

Outpatient accident and emergency services
(services provided within a hospital for the treatment of urgent or emergency conditions)

Care of older people
(medical care for older people when not covered by unplanned inpatients)

District nursing

Health visiting services

Clinical psychology services

Services provided by Community Mental Health Teams
(services delivered in the community for those with mental health problems)

Services provided by Community Learning Difficulties Teams
(services delivered in the community for those with learning difficulties)

Services for persons with addictions

Women's health services
(services providing the assessment, diagnosis care, planning and treatment of women's health, sexual health and contraception services)

Services delivered by allied health professionals

GP out-of-hours services

Public Health Dental Service

Continence services
(Assessment, investigation, diagnosis and treatment of those with continence problems)

Dialysis services delivered in the home

Services designed to promote public health

General Medical Services

GP pharmaceutical services

(prescribing and dispensing of medicine and therapeutic agents by GPs, nurse prescribers, and prescribing pharmacists working in GP practices.)

EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations prescribe certain functions of health boards for the purpose of section 1(6) and (8) of the Public Bodies (Joint Working) (Scotland) Act 2014 ("the 2014 Act").

The 2014 Act requires Health Boards and local authorities to agree arrangements for joint working in their area in relation to certain of their statutory functions. This will have the effect that adult health and social care services are provided, in all local authority areas, in a way which is integrated from the point of view of a person using those services. These joint working arrangements will involve the delegation of functions by the local authority, or by the Health Board, or both.

These Regulations prescribe the functions which a Health Board must delegate to an integration authority (regulations 2(1), (2)), and the broader range of functions which a Health Board may delegate to an integration authority (regulation 2(1)).

The functions which a Health Board may delegate to an integration authority are listed in Schedule 1 (regulation 2(1)).

The functions which a Health Board must delegate to an integration are also those functions listed in Schedule 1 (regulation 2(1)), but only insofar as they are exercisable in relation to adults and the health care services listed in Schedule 2 (regulation 2(2)).

The statutory functions of Health Boards are very broad and each may be capable of covering a wide range of health services. The extent to which Health Boards must delegate these functions can be most clearly prescribed by reference to the services listed in Schedule 2. The listed services encompass primary and community services which must be delegated by Health Boards in respect of adults.

ANNEX 3(C)

The Scottish Government
Riaghaltas na h-Alba

PROPOSALS FOR REGULATIONS PRESCRIBING FUNCTIONS THAT MAY OR THAT MUST BE DELEGATED BY A HEALTH BOARD UNDER THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

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
17. Other – please specify	Community Health & Care Partnership

ANNEX 3(D)

PROPOSALS FOR REGULATIONS PRESCRIBING FUNCTIONS THAT MAY OR THAT MUST BE DELEGATED BY A HEALTH BOARD UNDER THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

CONSULTATION QUESTIONS

1. Do you agree with the list of functions (Schedule 1) that may be delegated?

Yes ☐

No ☒

If no, please explain why:

The (optional) functions described within the schedule will be subject to further discussion between the Council and the Health Board, so as to clarify the potential implications for the Integration Joint Board and HSCP if it was to accept responsibility for some of these functions, and in what context.

There is a need to be:

1. Clearer about those functions whereby the Chief Officer and Integration Joint Board would have sole responsibility – e.g. district nursing – and those where it will likely be one of a number of bodies providing contributing attention and resources (e.g. services designed to promote public health). In respect of the latter, it would be clearer for all of those types of functions to be located in the "may be delegated" list rather than "must be delegated", not least to underline the wider partnership approach to their delivery.
2. Differentiate where the HSCP and Integration Joint Board are the lead for the strategic planning and accountable for the delivery of a function (either directly or via another body); and those where other the Acute Division of the NHS Health Board will be obliged to include the HSCP (and evidences how they have responded to its contribution) in their strategic planning processes. With respect to the latter, it is important that Integration Joint Boards and Chief Officers are not unfairly held disproportionately and unrealistically to account for the performance of NHS Acute Divisions (who are subject to separately managed to Board Chief Executives and subject to separate governance by the NHS Boards).

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

Yes ☐

No ☒

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

The national policy in respect of sexual health has moved away from the language of "Women's Health Services" in a focused attempt to shift the emphasis of sexual health away from women and towards both genders and couples where appropriate. The emphasis on women also potentially creates a perception of excluding "men who have sex with men" from accessing services and would be at odds with the requirements of the Equalities Act.

3. Are you clear what is meant by the services listed in Schedule 2 (as described in Annex A)?

Yes	
No	X

If not, we would welcome your feedback below to ensure we can provide the best description possible of these services, where they may not be applied consistently in practice.

In relation to Schedule 2 of the Regulations, the following should be made clearer:
1. Unplanned inpatients
We assume that the reference to "emergency conditions" relates to illnesses but these need to be clarified.
2. Outpatient Accident & Emergency
There is a need to clarify what should be accountabilities of HSCPs and what are the accountabilities separately through the NHS Boards.
3. Women's Health Services - see earlier comment above.

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

-

ANNEX 4(A)

PROPOSALS FOR NATIONAL HEALTH AND WELLBEING OUTCOMES RELATING TO THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

CONSULTATION PAPER

Integration Authorities will have responsibility for the planning and resourcing of a significant proportion of health and social care services across Scotland. It is important that each Integration Authority has a consistent framework against which to plan, report and account for its activities so that the Integration Authority, the Health Board and Local Authority, Scottish Ministers and the public can assess progress made to improve outcomes locally and in different parts of the country.

An outcomes based approach encourages us all to focus on the difference that we make and not just on the inputs or processes over which we have control. The national outcomes for health and wellbeing under the Act need to strike a balance between national prescription and local flexibility. Moving to an outcome-based approach for health and social care will require a shift in culture and practice.

The health and wellbeing outcomes must therefore reflect the experience of people who use services and people in the workforce who are involved in planning and delivering person-centred care.

Scottish Ministers recognise that there must be a clear understanding of the purpose of each outcome, and each national outcome, and its relevant indicators, will be explained and expanded upon in guidance. Measurement of each national health and wellbeing outcome will rely on nationally gathered data to ensure consistency of definition and collection methodology. Indicators in support of the national outcomes are in development.

An outcomes working group of key stakeholders, including the third sector and service-user and carer organisations, and jointly chaired by a Community Health Partnership Director and Social Work Director is established. It was established to develop outcomes relating to health and social care, and associated indicators for tracking progress towards them. The Group has been working with Scottish Government officials to develop the draft outcomes.

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

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

Policy Background: Integrated health and social care services must be planned for, and delivered, in person-centred ways that enable and support people to look after and improve their own health and wellbeing.

Our aim is to promote action to support a Scotland where people have the information, means, motivation, and opportunity to make the most of their genetic inheritance and to live a healthy life for as long as possible. Integrated health and social care services can influence this by the provision of appropriate information, and by working with individuals to identify how the assets the individual has, or can

access in their local family/community, could support people to make those changes to happen.

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

Policy Background: Successful integration of health and social care services will provide for more people to be cared for and supported at home or in a homely setting. This outcome aims to ensure delivery of community based services, with a focus on prevention and anticipatory care, to mitigate against inappropriate admission to hospital or long term care settings. It recognises that independent living is key to improving health and wellbeing, and responds to Scottish Ministers' commitment to support the reshaping of services to better care for and support the increasing number of people with complex needs in Scotland.

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

Policy Background: It is important that health and social care services take full account of the needs and aspirations of the people who use services. Person centred planning and delivery of services will ensure that people receive the right service at the right time, in the right place, and services are planned for and delivered for the benefit of people who use the service. For people who use care and support services, their experience of those services should be positive, and should be delivered for the person rather than to the person.

Outcome 4. Health and social care services are centred on helping to maintain or improve the quality of life of service users.

Policy Background: There is unwarranted variation and inconsistency in the quality of care and support for people across Scotland. Everyone should receive the same quality of service no matter where they live. It is therefore important that we continue to improve the quality of our care services and address inconsistencies. This national health and wellbeing outcome provides for an on-going focus on continuous improvement in relation to health and social care services.

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

Policy Background: Health inequalities can be described as the unjust differences in health which occur between groups occupying different positions in society. Health inequalities can occur by gender, income, social class, deprivation, educational status, ethnicity and geography and are the result of systematic and socially modifiable difference, not random variation. This outcome reflects the contributory role that health and social care services have in addressing health inequalities.

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

Policy Background: Scottish Ministers recognise the key role played by unpaid carers. This outcome reflects the importance of ensuring that health and social care services are planned and delivered with a strong focus on the wellbeing of unpaid carers.

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

Policy Background: In carrying out their responsibilities under this Act, Health Boards, Local Authorities and Integration Authorities must ensure that the planning and provision of health and social care services protects people from harm.

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

Policy Background: It is important that the people who work in health and social care services are supported to carry out their vitally important role to a high standard, and that they feel engaged with the work they do and the people for whom they care, in order to improve the care for, and experience of service users.

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

Policy Background: Scottish Ministers intend that health and social care services should be integrated from the perspective of the person receiving care. A key policy driver for integration is the growing population of people with multiple complex needs, many – though not all – of whom are older people. Preventative and anticipatory care can play a particularly important role in achieving better outcomes for people with multiple complex needs, helping to avoid or delay admission to institutional care settings and enabling people to stay in their own homes and communities for as long as possible. If people's needs are not anticipated, and opportunities to prevent the need for institutional care are not met, people can find themselves in institutional care too early, and for too long. Not only does this situation represent a poor outcome for the person, it is also a poor use of resources that could be better deployed on other forms of care, for that person and the wider community. Health and social care services must therefore be planned for, and delivered, in ways that make best use of available resource while at the same time optimising outcomes for patients and service users. These considerations must be taken account of by Integration Authorities in fulfilling their legal duty to achieve best value.

These Regulations prescribe these nine National Health and Wellbeing Outcomes under the power conferred by Section 5(1) of the Act.

ANNEX 4(B)

PROPOSALS FOR NATIONAL HEALTH AND WELLBEING OUTCOMES RELATING TO THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

Draft Order laid before the Scottish Parliament under section 69(2) of the Public Bodies (Joint Working)(Scotland) Act 2014, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2014 No.

HEALTH, SOCIAL CARE

Public Bodies (Joint Working)(National Health and Wellbeing Outcomes)(Scotland) Regulations 2014

Laid before the Scottish Parliament in draft

Made - - - - ***

Coming into force - - *in accordance with article 1*

The Scottish Ministers make the following Regulations in exercise of the powers conferred on them by sections 5(1) of the Public Bodies (Joint Working) (Scotland) Act 2014 (**a**) and all other powers enabling them to do so.

In accordance with section 5(2) of that Act they have consulted with each local authority, each Health Board and persons representing each of the groups mentioned in section 5(3) of that Act.

Citation and commencement

1. These Regulations may be cited as Public Bodies (Joint Working)(National Health and Wellbeing Outcomes)(Scotland) Regulations 2014 and come into force on *(tbc)*.

National Health and Wellbeing Outcomes

2. The national health and wellbeing outcomes prescribed for the purpose of section 5(1) of the Public Bodies (Joint Working)(Scotland) Act 2014 are the outcomes listed in the Schedule to these Regulations.

Name

A member of the Scottish Government

St Andrew's House,
Edinburgh

(a) 2014 ASP 9.

SCHEDULE

National Health and Wellbeing Outcomes

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

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

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

4. Health and social care services are centred on helping to maintain or improve the quality of life of service users.

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

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

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

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

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe national health and wellbeing outcomes ("the outcomes") which apply in relation to the Public Bodies (Joint Working) (Scotland) Act 2014 ("the 2014 Act"). The schedule to these Regulations sets out the outcomes.

The 2014 Act requires Health Boards and local authorities to agree arrangements for joint working in their area in relation to certain of their statutory functions. This will have the effect that adult health and social care services are provided, in all local authority areas, in a way which is integrated from the point of view of a person using those services.

The 2014 Act makes the following provisions as to the effect of the outcomes in the context of integrated arrangements for adult health and social care:

- The local authority and Health Board are required to have regard to the outcomes when preparing the integration scheme (section 3(2));
- The outcomes are relevant to consideration of the circumstances when an order under section 27(6) may be made (section 27(7);
- The strategic plan prepared by an integration authority must set out how arrangements for the delivery of integration functions are intended to contribute to achieving the outcomes (s29(2)(b));
- The integration authority is required to have regard to the outcomes when preparing or reviewing the strategic plan (section 30(2)(b) and section 37(2)(a)(ii));
- An integration joint board's constituent authorities can jointly require the strategic plan to be replaced if it prevents or is likely to prevent either of them from carrying out their functions in a way which contributed to achieving the outcomes (section 38(2));
- The persons carrying out integration functions must have regard to the outcomes (section 40(b)); and
- Healthcare Improvement Scotland and Social Care & Social Work Improvement Scotland are able to inspect health and social care services for the purpose of reviewing and evaluating how the planning and provision of services is contributing to the achievement of the outcomes. Alongside this they are able to encourage improvements and make recommendations in relation to the implementation of strategic plans in order to contribute to achieving the outcomes (sections 54 and 55).

The outcomes apply to all integration authorities, and to all persons carrying out integration functions. By reference to the outcomes, the effect of integrated health and care services on the health and wellbeing of individuals can be measured. As the outcomes apply nationally, their application will provide for the reduction of unwarranted variation in the quality of health and care services between geographical areas.

ANNEX 4(C)

The Scottish Government
Riaghaltas na h-Alba

PROPOSALS FOR NATIONAL HEALTH AND WELLBEING OUTCOMES 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	**Phone**	**Email**
G82 3PU	01389 737321	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
18. Other – please specify	Community Health & Care Partnership

ANNEX 4(D)

The Scottish Government
Riaghaltas na h-Alba

PROPOSALS FOR NATIONAL HEALTH AND WELLBEING OUTCOMES RELATING TO THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

CONSULTATION QUESTIONS

1. Do you agree with the prescribed National Health and Wellbeing Outcomes?

Yes [X]

No [ ]

If no, please explain why:

2. Do you agree that they cover the right areas?

Yes [X]

No [ ]

3. If not, which additional areas do you think should be covered by the Outcomes?

4. Do you think that the National Health and Wellbeing Outcomes will be understood by users of services, as well as those planning and delivering them?

Yes [X]

No [ ]

5. If not , why not?

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

We broadly support the suggested health and wellbeing outcomes. However, would argue that they are not and should not be presented as of equal importance or that the HSCP will have the same degree of direct control over improvements to them all, e.g.:

1. We would argue that outcome number 7 ("people who use health and social care services are safe from harm") should have pre-eminence.
2. We would argue that given that the fundamental determinants of health inequalities sit outwith the reasonable jurisdiction of HSCP (as they are social, economic and environmental), national prescribed outcomes in relation to health inequalities should instead be directed towards the wider local Community Planning Partnerships (of which the HSCP will be a key actor, but should not be mistaken as having the most powerful locus on said determinants).

We are concerned that the indicators currently drafted as an expression of the proposed outcomes are:

1. Too heavily weighted towards subjective experience of service users at the expense of more objective data on how their conditions or situations have been improved through their engagement with services.
2. Of limited value for on-going and in-year performance management by Integration Joint Boards, as much of the data would not be readily and timeously available).
3. Include a number that as currently framed it would be unfair for the Integration Joint Board to hold a Chief Officer solely accountable for (or indeed of Scottish Government, Council's or NHS Boards holding Integration Joint Boards to account for) given that they concern wicked issues outwith the sole locus of the HSCP.

It is important that performance is reported and can be robustly scrutinised, and we believe that the national outcomes 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 they will also have to demonstrate performance in relation to relevant outcomes for those portfolios in a manner that is accessible (and which does not encourage the creation or resourcing of a burdensome and complicated performance reporting "industry").

ANNEX 5(A)

PROPOSALS FOR INTERPRETATION OF WHAT IS MEANT BY THE TERMS HEALTH AND SOCIAL CARE PROFESSIONALS RELATING TO THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

CONSULTATION PAPER

The Public Bodies (Joint Working) (Scotland) Act 2014 contains the phrases 'health professionals' and 'social care professionals'. These Regulations describes what is meant by these terms, and to whom they refer, within the context of the Act and where they are used in the Regulations created under the Act.

People, or groups of people, who are not mentioned within these Regulations will not be considered as 'health professionals' or 'social care professionals' in relation to the Act or the Regulation created under the Act.

The professions that are covered by the prescribed bodies mentioned in this draft Regulation are detailed below:

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

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

ANNEX 5(B)

PROPOSALS FOR INTERPRETATION OF WHAT IS MEANT BY THE TERMS HEALTH AND SOCIAL CARE PROFESSIONALS RELATING TO THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2014 No.

HEALTH, SOCIAL CARE

Public Bodies (Joint Working) (Health Professionals and Social Care Professionals) (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 68(1) 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) (Health Professionals and Social Care Professionals) (Scotland) Regulations 2014 and come into force on *(tbc)*.

Prescribed descriptions of health professionals

2. For the purpose of section 68(1) of the Act, "health professionals" means persons to whom one of the following prescribed descriptions apply:-

(a) a person who is included in the register of medical practitioners kept by the registrar of the General Medical Council under section 2(1) of the Medical Act 1983(**b**);

(b) a person who is included in the dentists register kept by the registrar of the General Dental Council under section 14(1) of the Dentists Act 1984(**c**);

(c) a person who is included in the dental care professionals register kept by the registrar of the General Dental Council under section 36B of the Dentists Act 1984(**d**);

(d) a person who is included in the register of optometrists or the register of dispensing opticians maintained by the General Optical Council under section 7 of the Opticians Act 1989(**e**);

(e) a person who is included in the register of osteopaths maintained by the Registrar of the General Osteopathic Council under section 2(3) of the Osteopaths Act 1993(**f**);

(f) a person who is included in the register of chiropractors maintained by the registrar of the General Chiropractic Council under section 2(3) of the Chiropractors Act 1994(**g**);

(a) 2014 ASP 9.
(b) 1983 C.54; section 2(1) was amended by S.I. 2006/1914 article 4(a).
(c) 1984 C.24; section 14 was amended by S.I.2007/1301, part 7, regulation 11.
(d) Section 36B was inserted by the Dentists Act 1984 (Amendment) Order 2005, S.S.I. 2005/2011 article 29.
(e) 1989 C.44; section 1 was amended by S.I. 2005/848, article 7(1)(a) and (b).
(f) 1993 C.21.
(g) 1994 C.17.

(g) a person who is included in Part 1 (pharmacists) or Part 2 (pharmacy technicians) of the register maintained by the registrar of the General Pharmaceutical Council under Article 19 of the Pharmacy Order 2010(**a**);

(h) a person who is included in the register of qualified nurses and midwives maintained by the Nursing and Midwifery Council under Article 5 of the Nursing and Midwifery Order (2001)(**b**); or

(i) a person who is included in the register of members of relevant professions maintained by the Health and Care Professions Council under Article 5 of the Health and Social Work Professions Order 2002(**c**).

Prescribed descriptions of social care professionals

3.For the purpose of section 68(1) of the Act, "social care professionals" means persons to whom one of the following descriptions apply:-

(a) a person who is included in the register of social workers and social service workers maintained by the Scottish Social Services Council under section 44 of the Regulation of Care (Scotland) Act 2001(**d**);

(b) a person who, aside from the fact that they are an excluded person by virtue of article 3 of the Regulation of Care (Social Service Workers) (Scotland) Order 2005(**e**), would be included in the register of social workers and social service workers maintained by the Scottish Social Services Council under section 44 of the Regulation of Care (Scotland) Act 2001; or

(c) a person to whom (a) and (b) do not apply but who is engaged in the provision of care or support to users of social care services which are provided in the pursuit of integration functions.

Name

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St Andrew's House,
Edinburgh

(a) S.I. 2010/23.
(b) S.I. 2002/235.
(c) S.I. 2002/254.
(d) 2001 ASP 8. Section 44 has been amended by S.I.2007/3101, regulation 257.
(e) S.S.I. 2005/315.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe descriptions of persons who, for the purposes of the Public Bodies (Joint Working) (Scotland) Act 2014 ("the 2014 Act"), are within the definition of "health professionals" or "social care professionals".

Article 2 sets out prescribed descriptions of health professionals. The effect of this is that persons registered with a range of regulatory bodies covering the medical and nursing professions, allied health professions and other health services such as optometry, pharmacy and dentistry will be treated as "health professionals" for the purposes of ("the 2014 Act").

Article 3 sets out prescribed descriptions of social care professionals. In contrast with health professionals, there is a single regulatory body for social service workers (including social workers) in Scotland, the Scottish Social Services Council ("SSSC"). Paragraph (a) provides that persons who are registered with the SSSC are a prescribed description of social care professional for the purposes of the 2014 Act. Paragraph (b) provides that persons working in social care, but who are exempt from registration with the SSSC, are also a prescribed description of social care professional. This exemption applies to persons who are regulated by another professional body as set out in the Regulation of Care (Social Service Workers) (Scotland) Order 2005. Paragraph (c) describes other types of social care worker, who are directly involved in the provision of care or support to service users, but who are not regulated by the SSSC.

ANNEX 5(C)

The Scottish Government
Riaghaltas na h-Alba

PROPOSALS FOR INTERPRETATION OF WHAT IS MEANT BY THE TERMS HEALTH AND SOCIAL CARE PROFESSIONALS RELATING TO THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

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
19. Other – please specify	Community Health & Care Partnership

ANNEX 5(D)

The Scottish Government
Riaghaltas na h-Alba

PROPOSALS FOR INTERPRETATION OF WHAT IS MEANT BY THE TERMS HEALTH AND SOCIAL CARE PROFESSIONALS RELATING TO THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

CONSULTATION QUESTIONS

1. Do you agree that the groups listed in section 2 of the draft regulations prescribe what 'health professional' means for the purposes of the Act?

Yes ☐

No ☒

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

Allied Health Professionals – specifically Occupational Therapists - can be employed within both the NHS and local authorities (albeit currently to do different duties) so this ought to be recognised within the regulations.

3. Do you agree that identifying Social Workers and Social Service Workers through registration with the Scottish Social Services Commission is the most appropriate way of defining Social Care Professionals, for the purposes of the Act?

Yes ☒

No ☐

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

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

The regulations would be improved by clarifying the responsibilities and obligations on those individuals fulfilling specific professional functions (particularly in respect of clinical and care governance; and the regulation of professional staff groups) to provide advice, support and reassurance to the Chief Officer and the Integration Joint Board, alongside their traditional responsibilities in supporting either respective Chief Executives and Councils or the NHS Boards.

So, for example, where the Chief Social Work Officer (CSWO) function is not being discharged by the Chief Officer, then the CSWO (whether they are a member of the HSCP management team or not) should be obliged to support the Chief Officer and the Integration Joint Board in a similar fashion to how the legislation currently requires them to support local authority chief executives and Councils. A similar approach should sensibly be required of the relevant "corporate" executive directors of the NHS Board (i.e. Medical Director, Director of Nursing and Director of Public Health), either by those individuals directly or through some arrangement (agreed by the Integration Joint Board and Chief Officer) whereby they discharge their responsibilities to support the effective functioning of the HSCP through appropriately qualified and specified members of staff (who have a "dotted line" accountability to the Chief Officer at a local level to reflect their being seen to be part of the local HSCP team).

ANNEX 6(A)

PRESCRIBED FUNCTIONS CONFERRED ON A LOCAL AUTHORITY OFFICER RELATING TO THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

CONSULTATION PAPER

Section 1 of the Public Bodies (Joint Working) (Scotland) Act 2014 provides for Regulations to prescribe any function of a Local Authority as a function which must be delegated to the Integration Authority.

The Act restricts the range of Local Authority functions that can be delegated to Integration Authorities to specific "social care" functions. This is set out in the Schedule in the Act.

The Act also restricts Scottish Ministers' powers in prescribing Local Authority social care functions, so that Scottish Ministers can only require the delegation of social care functions insofar as they relate to adults. For the purposes of the Regulations the age limit of 18 is being used to define "adults".

Under section 1(7) of the Act, Scottish Ministers may, by Regulations, prescribe those functions which Local Authorities must delegate under an Integration Scheme.

The legal framework which confers "social care" functions on Local Authorities can be found across a wide range of Scottish legislation. These functions are considered key to the establishment and promotion of a comprehensive and integrated health and social care service across Scotland.

Social work and social care services support some of the most vulnerable people in our society. These services aim to be person centred and community based, with the purpose of promoting and improving, independence and social inclusion. Services which are aimed at increasing an individual's quality of life, self-care and resilience, mitigating the effects of poverty, illness and disability also seek to prevent the inappropriate use of more intensive services.

A number of functions relating to the Adult Support and Protection (Scotland) Act 2007, that must be delegated are restricted to specified persons before they can be authorised to perform the functions of a "council officer".

These Regulations set out which functions conferred on an officer of a Local Authority are prescribed for the purposes of section 23(1)(a) of the Public Bodies (Joint Working) (Scotland) Act 2014.

PRESCRIBED FUNCTIONS CONFERRED ON A LOCAL AUTHORITY OFFICER RELATING TO THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2014 No.

HEALTH, SOCIAL CARE

Public Bodies (Joint Working) (Prescribed Functions of Local Authority Officers) (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 23(1)(a) 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) (Prescribed Functions of Local Authority Officers) (Scotland) Regulations 2014 and come into force on *(tbc)*.

Prescribed functions

2.—(1) The functions conferred on a council officer by or by virtue of sections 7, 8, 9, 10, 11, 14, 16 and 18 of the Adult Support and Protection (Scotland) Act 2007 are prescribed for the purposes of section 23(1)(a) of the Public Bodies (Joint Working) (Scotland) Act 2014 ("the 2014 Act").

Prescribed condition

3.—(1) The following condition is prescribed for the purpose of section 23(1)(b) of the 2014 Act.

(2) A officer on whom the function is deemed to have been conferred must meet the requirements specified in Article 3, or as the case may be, Article 4 of the Adult Support and Protection (Scotland) Act 2007 (Restriction on the Authorisation of Council Officers) Order 2008(**b**).

Name

A member of the Scottish Government

St Andrew's House,
Edinburgh

(a) 2014 ASP 9. Section 68 contains a definition of "prescribed" relevant to the exercise of the statutory powers under which these Regulations are made.

(b) S.S.I. 2008/306. Article 3 was amended by the Health and Social Act 2012 (Consequential Provision – Social Workers) Order 2012/1479 Schedule 1(1) paragraph 58.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe certain functions of officers of local authorities for the purpose of section 23 of the Public Bodies (Joint Working) (Scotland) Act 2014 ("The 2014 Act").

The 2014 Act requires Health Boards and local authorities to agree arrangements for joint working in their area in relation to certain of their statutory functions. Section 23 of the 2014 Act makes provision to allow certain prescribed functions, in the context of these joint working arrangements, to be exercised by persons other than the persons on whom the functions are directly conferred.

Regulation 2 sets out the functions which are prescribed for the purpose of section 23 of the 2014 Act. These are functions which, in respects of a local authority area, are conferred directly on an officer of that local authority. The effect of regulation 2(1) is that a person who is an officer of the Health Board (or any other local authority) with which a local authority has made joint working arrangements under the 2014 Act may exercise those functions in respect of the area of that local authority providing that the condition in regulation 3 is satisfied.

Regulation 3 sets out a prescribed condition for the application of section 23 of the 2014 Act to the prescribed functions. A person who is not an officer of a local authority may only exercise the prescribed functions for the area of that local authority if the person meets the criteria set out in the Adult Support and Protection (Scotland) Act 2007 (Restriction on the Authorisation of Council Officers) Order 2008 which are relevant to the function in question.

ANNEX 6(C)

The Scottish Government
Riaghaltas na h-Alba

PRESCRIBED FUNCTIONS CONFERRED ON A LOCAL AUTHORITY OFFICER 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
20.	**Other – please specify**	Community Health & Care Partnership

ANNEX 6(D)

PRESCRIBED FUNCTIONS CONFERRED ON A LOCAL AUTHORITY OFFICER RELATING TO THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

CONSULTATION QUESTIONS

1. Do you believe that the draft Regulations will effectively achieve the policy intention of the Act?

Yes [X]

No [ ]

2. If not, which part of the draft Regulations do you believe may not effectively achieve the policy intention of the Act, and why?

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

We broadly support the draft regulations and look forward to final version being further refined. We would argue though that too much of the regulations are over-prescriptive in terms of rigid structures, process and procedures. This is particularly relevant for those HSCP which are responsible for more that the de minimis/"must be delegated" services.

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 have to be invited to attend 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 Integration Joint Board to hold the Chief Officer to account for how the HSCP does that within the context of local Community Planning arrangements.

The significance of delivering integrated governance and strategic management arrangements that represent a single "health and social care system" should not be under-estimated. However, it is important to also recognise that no organisational model can provide a convenient "magic bullet" nor act as a panacea for the complexity and scale of health and social care challenges - particularly within the extremely challenging financial climate that is anticipated to persist for some years to come. A key finding of Audit's Scotland's Review of Community Health Partnerships Report was that CHPs had inconsistently delivered on a joined-up service agenda across Scotland. Our view is that was an unfair criticism to level at CHPs themselves, as this was at least a part-consequence of the original legislation attempting to achieve too many different policy objectives; and Audit Scotland viewing all of the objectives set as having equivalent weight and priority. As such, it is important that the final regulations published are appropriately calibrated to avoid sowing the seeds of unfair expectations.

ANNEX 7

SET 1 – PROPOSALS FOR DRAFT REGULATIONS 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
- Commission for Racial Equality
- CoSLA
- Council leaders
- Departmental Committee Liaison Officer
- Departments of Health (UK, Northern Ireland and Wales)
- Local Authority Chief Executives
- 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 Commission for Equality and Human Rights
- The Six Legal Deposit Libraries
- Third and independent sector organisations
- Trade Unions

For a copy of the full list please email: Alison.beckett@scotland.gsi.gov.uk

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Riaghaltas na h-Alba

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