

POLICY NOTE

THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014 (CONSEQUENTIAL MODIFICATIONS) ORDER 2016

SSI 2016/150

1. The above instrument was made in exercise of powers conferred by section 70 of the Public Bodies (Joint Working) (Scotland) Act 2014 (“the 2014 Act”). It is subject to the affirmative procedure in the Scottish Parliament.

Summary of policy proposals

2. The Order amends the Protection of Vulnerable Groups (Scotland) Act 2007 (“the 2007 Act”) and the Protection of Vulnerable Groups (Scotland) Act 2007 (Prescribed Services) (Protected Adults) Regulations 2010 (“the 2010 Regulations”). The 2007 Act established a membership scheme for persons working in certain roles in order to protect vulnerable service users. These amendments are made to reflect changes to service provision that may arise from arrangements made by Health Boards and local authorities for the integration of health and social care under the 2014 Act.
3. Integrated health and social care arrangements may involve, for example, the provision of a health service by a council or a joint team, the people receiving those services would not, for the purposes of section 94 of the 2007 Act, be “protected adults”. This also applies to community care services provided by a person other than the council.
4. Section 94 of the 2007 Act defines a “protected adult” as a person in receipt of certain services. These include:
 - A health service provided or secured by a health body under the NHS (Scotland) Act 1978, or independent/private health organisation (the prescribed health services are set out in the 2010 Regulations at regulation 3);
 - A community care service provided or secured by a council under the Social Work (Scotland) Act 1968 or the Mental Health (Care and Treatment) (Scotland) Act 2003.
5. Regulated work (with adults) is defined as work with “protected adults”, as defined in section 94 of the 2007 Act (read with the 2010 Regulations), or work in roles and establishments listed in schedule 3 to that Act. The amendment to schedule 2, paragraph 17 of the 2007 Act is made as services provided for children may be included in integrated arrangements where this is agreed locally. Again, the amendment seeks to ensure that integration of these services does not affect the application of the PVG scheme.

Effect of the policy proposals

6. The policy objective of this instrument is to ensure that if a service provided by a Health Board or a council is secured or provided under the integration arrangements, it will continue to be within the scope of the 2007 Act and the 2010 Regulations.
7. The effect of this instrument is therefore that individuals delivering certain services to adults remain within the meaning of doing regulated work with protected adults regardless of the arrangements under which these services have been secured or provided. The 2007 Act and 2010 Regulations will continue to apply consistently to certain workers and service users, regardless of local health and social care integration arrangements in a particular local authority area.

Consultation

8. It has not been necessary to consult on the Instrument. This is a technical change to the law to ensure that the establishment of integration arrangements under the 2014 Act does not affect the PVG scheme membership of individuals providing certain services. In addition, a consultation was previously carried out in relation to the 2014 Act and these changes are consistent with the broad policy objectives underpinning that Act. Disclosure Scotland will advise councils and Health Boards of this change (by an email to each council or Health Board lead signatory registered with Disclosure Scotland) and also make a customer news announcement on its website.

Impact Assessment

9. An equality impact assessment has already been completed on the Public Bodies (Joint Working) (Scotland) Bill and a summary published. To view the Equality Impact Assessment [click here](#). No additional issues arise as a result of this instrument.

Financial Effects

10. This instrument will have minimal financial effects. If an individual is a PVG scheme member now, these changes will not affect that membership. The scope of doing regulated work with adults is not being extended by these amendments and as such we do not foresee more people having to join the PVG Scheme. As integration arrangements could be put in place anytime from 1 April 2015 it is technically possible that a small number of council or Health Board staff may have held back from PVG application and might now be asked to apply to join the PVG Scheme. However we are not aware of this being an issue in practice.

Scottish Government
February 2016