



# Public Bodies (Joint Working) (Scotland) Act 2014

## 2014 asp 9

### PART 1

#### FUNCTIONS OF LOCAL AUTHORITIES AND HEALTH BOARDS

##### *Integration schemes*

#### **1 Integration schemes: same local authority and Health Board area**

- (1) Subsection (2) applies where the area of a local authority is the same as the area of a Health Board.
- (2) The local authority and the Health Board must jointly prepare an integration scheme for the area of the local authority.
- (3) An integration scheme is a scheme setting out—
  - (a) which integration model mentioned in subsection (4) is to apply,
  - (b) the functions that are to be delegated in accordance with that model,
  - (c) where functions are to be delegated in accordance with the model mentioned in subsection (4)(b), (c) or (d), the functions of the person to whom functions are to be delegated which are to be carried out in conjunction with the delegated functions,
  - (d) in relation to any functions to which subsection (14) applies that are to be delegated, a method of determining amounts to be made available by the Health Board for use by the person to whom the functions are delegated in respect of those functions,
  - (e) in relation to any functions other than those mentioned in paragraph (d) that are to be delegated (including any functions mentioned in that paragraph but in relation to which the Health Board deems subsection (14) not to apply), a method of determining payments that are to be made in respect of the delegated functions by the person delegating the functions to the person to whom the functions are delegated,
  - (f) prescribed information about such other matters as may be prescribed.

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- (4) The integration models are—
- (a) delegation of functions by the local authority to a body corporate that is to be established by order under section 9 (an “integration joint board”) and delegation of functions by the Health Board to the integration joint board,
  - (b) delegation of functions by the local authority to the Health Board,
  - (c) delegation of functions by the Health Board to the local authority,
  - (d) delegation of functions by the local authority to the Health Board and delegation of functions by the Health Board to the local authority.
- (5) A local authority may delegate a function under an integration scheme only if the function is conferred—
- (a) by an enactment listed in Part 1 of the schedule, or
  - (b) by virtue of an enactment listed in Part 2 of the schedule.
- (6) A Health Board may delegate a function under an integration scheme only if the function is prescribed.
- (7) The Scottish Ministers may by regulations prescribe which of the functions conferred by or by virtue of enactments listed in the schedule local authorities must delegate under an integration scheme so far as the functions are exercisable in relation to persons of at least 18 years of age where the integration model mentioned in subsection (4)(a) or (b) is to apply under the scheme.
- (8) The Scottish Ministers may by regulations prescribe functions of Health Boards which Health Boards must delegate under an integration scheme so far as the functions are exercisable in relation to persons of at least 18 years of age where the integration model mentioned in subsection (4)(a) or (c) is to apply under the scheme.
- (9) If the integration model mentioned in subsection (4)(d) is to apply under an integration scheme either—
- (a) the local authority must delegate the functions prescribed under subsection (7) so far as the functions are exercisable in relation to persons of at least 18 years of age, or
  - (b) the Health Board must delegate the functions prescribed under subsection (8) so far as the functions are exercisable in relation to persons of at least 18 years of age.
- (10) The Scottish Ministers may by regulations prescribe functions of Health Boards that a Health Board—
- (a) must delegate under an integration scheme other than in prescribed circumstances,
  - (b) may not delegate under an integration scheme in prescribed circumstances.
- (11) The Scottish Ministers may by regulations prescribe which of the functions conferred by or by virtue of enactments listed in the schedule local authorities may not delegate in prescribed circumstances.
- (12) The Scottish Ministers may by regulations remove an enactment from the schedule.
- (13) A function may not be set out under subsection (3)(c) if it is a function which may not be delegated under an integration scheme.
- (14) This subsection applies where functions that a Health Board proposes to delegate under an integration scheme—

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- (a) are carried out in a hospital in the area of the Health Board, and
  - (b) are provided for the areas of two or more local authorities.
- (15) Regulations under subsection (3)(f) may include provision—
- (a) conferring discretion on local authorities and Health Boards,
  - (b) requiring local authorities and Health Boards to establish processes and procedures relating to prescribed matters,
  - (c) imposing requirements on local authorities and Health Boards about the disclosure of information,
  - (d) in relation to such other matters relating to integration schemes as the Scottish Ministers think fit.
- (16) In this section, “Health Board” means a Health Board constituted under section 2(1) (a) of the National Health Service (Scotland) Act 1978.

## **2 Integration schemes: two or more local authorities in Health Board area**

- (1) This section applies where the areas of two or more local authorities fall within the area of a Health Board.
- (2) Each local authority and the Health Board must comply with subsection (3) or (4).
- (3) Each local authority and the Health Board must jointly prepare an integration scheme for the area of the local authority.
- (4) Two or more local authorities and the Health Board must jointly prepare an integration scheme for the areas of those local authorities.
- (5) For the purposes of subsection (4), if the local authorities and the Health Board decide that the integration model mentioned in paragraph (c) or (d) of section 1(4) is to apply—
  - (a) functions are to be delegated under those models to only one of the local authorities,
  - (b) the authorities and the Health Board must set out in the integration scheme which local authority the functions are to be delegated to (the “lead authority”),
  - (c) paragraph (c) of section 1(4) applies as if for the words “to the local authority” there were substituted the words “and the local authority or authorities to the lead authority”, and
  - (d) paragraph (d) of section 1(4) applies as if for the words from “to”, where it first occurs, to “local” there were substituted “or authorities to the Health Board and delegation of functions by the Health Board and the local authority or authorities to the lead”.
- (6) In preparing an integration scheme under subsection (3) or (4), a local authority and the Health Board must take into account—
  - (a) any other integration scheme that has been, or is being, prepared in relation to the area of the same Health Board, and
  - (b) the likely effect on the Health Board of both or all the schemes prepared under this section.

### **3 Considerations in preparing integration scheme**

- (1) This section applies where a local authority and a Health Board are preparing an integration scheme.
- (2) The local authority and the Health Board must have regard to—
  - (a) the integration planning principles (see section 4), and
  - (b) the national health and wellbeing outcomes (see section 5).

### **4 Integration planning principles**

- (1) The integration planning principles are—
  - (a) that the main purpose of services which are provided in pursuance of integration functions is to improve the wellbeing of service-users,
  - (b) that, in so far as consistent with the main purpose, those services should be provided in a way which, so far as possible—
    - (i) is integrated from the point of view of service-users,
    - (ii) takes account of the particular needs of different service-users,
    - (iii) takes account of the particular needs of service-users in different parts of the area in which the service is being provided,
    - (iv) takes account of the particular characteristics and circumstances of different service-users,
    - (v) respects the rights of service-users,
    - (vi) takes account of the dignity of service-users,
    - (vii) takes account of the participation by service-users in the community in which service-users live,
    - (viii) protects and improves the safety of service-users,
    - (ix) improves the quality of the service,
    - (x) is planned and led locally in a way which is engaged with the community (including in particular service-users, those who look after service-users and those who are involved in the provision of health or social care),
    - (xi) best anticipates needs and prevents them arising, and
    - (xii) makes the best use of the available facilities, people and other resources.
- (2) In subsection (1), “service-users” means persons to whom or in relation to whom the services are provided.

### **5 Power to prescribe national outcomes**

- (1) The Scottish Ministers may by regulations prescribe outcomes in relation to health and wellbeing (the “national health and wellbeing outcomes”).
- (2) Before making regulations under subsection (1), the Scottish Ministers must consult—
  - (a) each local authority,
  - (b) each Health Board,
  - (c) each integration joint board at the time established,
  - (d) in respect of each group mentioned in subsection (3), such persons appearing to be representative of the group as the Scottish Ministers think fit.

- (3) The groups mentioned in subsection (2)(d) are—
- (a) health professionals,
  - (b) users of health care,
  - (c) carers of users of health care,
  - (d) commercial providers of health care,
  - (e) non-commercial providers of health care,
  - (f) social care professionals,
  - (g) users of social care,
  - (h) carers of users of social care,
  - (i) commercial providers of social care,
  - (j) non-commercial providers of social care,
  - (k) such persons having functions in relation to housing as the Scottish Ministers think fit.

## **6 Consultation**

- (1) This section applies where a local authority and a Health Board are required by section 1(2) or 2(2) to prepare an integration scheme.
- (2) Before submitting the integration scheme for approval under section 7, the local authority and the Health Board must jointly consult—
- (a) such persons or groups of persons appearing to the Scottish Ministers to have an interest as may be prescribed, and
  - (b) such other persons as the local authority and the Health Board think fit.
- (3) In finalising the integration scheme, the local authority and the Health Board must take account of any views expressed by virtue of subsection (2).

## **7 Approval of integration scheme**

- (1) After complying with section 6 and before the prescribed day, a local authority and a Health Board must jointly submit an integration scheme to the Scottish Ministers for approval.
- (2) The Scottish Ministers may—
- (a) approve the scheme submitted under subsection (1),
  - (b) refuse to approve it.
- (3) If the Scottish Ministers refuse to approve the scheme they must—
- (a) give the local authority and the Health Board reasons for the refusal (including identifying which particular parts of the scheme caused them to decide to refuse approval),
  - (b) explain how the scheme should be modified, and
  - (c) specify a day by which the local authority and the Health Board must jointly modify the scheme and submit it for approval.
- (4) Following submission of a modified scheme under subsection (3), the Scottish Ministers may—
- (a) approve the modified scheme, or
  - (b) refuse to approve it.

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- (5) Where the Scottish Ministers refuse to approve a modified scheme, the local authority and the Health Board are to be treated as if they failed before the prescribed day to submit an integration scheme under this section; and section 51 applies accordingly.
- (6) The Scottish Ministers may, on their own account or on the request of the local authority and the Health Board, specify that subsection (1) applies as if the prescribed day were such later day as the Scottish Ministers may specify.
- (7) A request under subsection (6) must be made in writing and must include the reasons for the request.
- (8) A day specified under subsection (6) is to be treated as if it were the prescribed day for the purposes of the other provisions of this Act.

## **8 Publication of integration scheme**

As soon as practicable after an integration scheme is approved under section 7, the local authority and the Health Board must publish it.