POLICY NOTE

The Civil Contingencies Act 2004 (Amendment of List of Responders) (Scotland) Order 2021

SSI 2021/XXX

The above instrument was made in exercise of the powers conferred by section 13(2)(a) of the Civil Contingencies Act 2004. The instrument is subject to affirmative procedure.

Purpose of Instrument: The Civil Contingencies Act 2004 predates the creation of Integrated Joint Boards (the legal entities created to deliver integrated health and social care services under the Public Bodies (Joint Working) (Scotland) Act 2014) and therefore does not list them as first or second responders.

Since integration was introduced in Scotland, Integration Joint Boards (IJBs) have taken on a critical role in ensuring services are planned and delivered effectively for the wellbeing of local people. Taken with our recent experience of their role in mobilising services to respond to COVID-19, we recognise that IJBs should be included as responders in the Civil Contingencies Act, formalising their role in emergency planning. The purpose of this instrument is to make that change in legislation.

Policy Objectives
The new instrument will formalise the role of Integration Joint Boards in emergency planning, ensuring their inclusion in groups considering planning for these scenarios.

By including Integration Joint Boards as first responders (category 1) they will be subject to the full set of civil protection duties, alongside emergency services, Local Authorities and NHS bodies. This will require them to:

- assess the risk of emergencies occurring and use this to inform contingency planning;
- put in place emergency plans;
- put in place business continuity management arrangements;
- put arrangements in place to make information available to the public about civil protection matters and maintain arrangements to warn, inform and advise the public in the event of an emergency;
- share information with other local responders to enhance co-ordination;
- co-operate with other local responders to enhance co-ordination and efficiency;

This will ensure Integration Joint Boards can consider the impact of emergency planning decisions for integrated health and social care services. It will formalise their inclusion as a core responder to most emergencies.

The policy is to include Integration Joint Boards alongside NHS bodies and Local Authorities, giving them the same duties and responsibilities.

Consultation
A public consultation took place from 12 October to 22 November 2020.

The purpose of the consultation was to ensure that the proposal to include Integration Joint Boards as Category 1 responders under Schedule 2 of the Civil Contingencies Act 2004 would have no significant wider impacts or unintended consequences under the Equality Act 2010 including the Fairer Scotland Duty.

Of the 42 valid responses received, 16 made no comment about potential equalities impacts. Of the 28 responses which did comment on equalities impacts, the vast majority felt that there were no potential equalities impacts. Four responses stated that there were positive impacts – associated with closer working between partners, and fairness and equity in response and recovery. Four felt that there were negative equalities impacts, but no responses mentioned any of the specific protected characteristics.

Although the consultation asked only about equalities impacts, 33 respondents took the opportunity to provide their views on the proposal itself. Respondents' views were mixed, and there was no consensus about the proposal to amend the Civil Contingencies Act 2004 to include Integration Joint Boards.

Of these responses, ten were broadly supportive of the proposal, although four of these also expressed some reservations. Support was generally associated with views that the proposal would enhance or formalise existing arrangements, and reservations were due to issues requiring clarification and concerns about resourcing and capacity.

Fourteen responses stated that they did not support the proposal, objections were generally associated with views that the proposal is potentially burdensome/unnecessary; detrimental to existing systems; likely to create complexity; not compatible with IJBs' constitution

It is important to note that on the whole, although not exclusively, Integration Joint Boards were generally supportive of the intention to legislate while the majority of the responses for current arrangements to remain in place came from Local Authorities and NHS partners. The proposal to legislate has emerged from evidence during the pandemic, referenced by the Health and Sport Committee on the 17 June 2020, that in some areas Integration Joint Boards were not included in local response activity by the Health Board and/or Local Authority.

In considering all of the responses to the consultation, the Scottish Ministers have concluded that there are neither clear equality, operational nor strategic planning barriers to progressing the proposal and legislating for the Integration Joint Board inclusion within the Civil Contingencies Act 2004 as Category 1 responders. The inclusion of Integration Joint Boards in the Civil Contingencies Act 2004 will ensure formal coordinated and appropriate arrangements are in place for emergency planning to support local communities.

A full list of those consulted and who agreed to the release of this information can be found here: Consultation to amend the Civil Contingencies Act 2004 to include Integration Joint Boards - Scottish Government - Citizen Space

Impact Assessments
An Equality Impact Assessment Record has been completed and is attached.

The Equality Impact Assessment has helped to consider each of the protected characteristics covered by the Equality Act 2010. Through a methodical and considered process it was confirmed that each of the duties are already part of the consideration process that the

Integration Joint Boards make as part of any decision making, either within the Integration Joint Board planning and delivery function or within the role of the Chief Officer being a director of the Health Board or Local Authority. This role for the Chief Officer means that they are currently part of any emergency planning which requires collaboration across first responders under the Civil Contingencies Act. Inclusion of the Integration Joint Board within the Civil Contingencies Act 2004 will formalise the role but it is not expected that it will add significant additional burden to the Integration Joint Board.

As public sector bodies the Integration Joint Boards, Health Boards and Local Authorities have responsibility to consider, collect and analyse equality data including under emergency planning, this requirement does not change with the addition of the Integration Joint Boards having a formalised role as a Category 1 responder under the Act. No positive or negative impacts in relation to equalities have been identified as part of the impact assessment, nor through the consultation, therefore no additional monitoring is required for the purposes of the Integration Joint Boards becoming Category 1 responders under the Civil Contingencies Act 2004.

Financial Effects

The *Cabinet Secretary for Health and Sport* confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Directorate for Community Health and Social Care

January 2021