POLICY NOTE

THE PUBLIC BODIES (JOINT WORKING) (PRESCRIBED LOCAL AUTHORITY FUNCTIONS ETC.) (SCOTLAND) REGULATIONS 2014

SSI 2014/345

1. The above instrument was made in exercise of the powers conferred by sections 1(7) and (12), and 69(1)(b) of the Public Bodies (Joint Working) (Scotland) Act 2014 ("the Act") and all other powers enabling them to do so. The instrument is subject to affirmative resolution procedure.

Policy Objectives

2. The Act requires Health Boards and local authorities to agree arrangements for joint working in their area in relation to certain of their statutory functions. The purpose of these Regulations is to set out local authority functions primarily relating to social care services for adults, which must be delegated under the Act, and to amend the schedule to that Act to restrict the range of local authority functions which can be delegated.

3. The legal framework that confers social care functions on Local Authorities can be found across a wide range of legislation. The Act enables the Scottish Ministers to prescribe in regulations the functions of a Local Authority that must be delegated to the Integration Authority. The range of Local Authority functions that may be delegated, which relate to social care and social work services, is set out in the schedule in the Act.

4. The intention of the Scottish Ministers is that that the following social care services for adults provided by Local Authorities must be included in the joint working arrangements that are made under the Act.

    - Social work services for adults and older people
    - Services and support for adults with physical disabilities and 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
    - Aspects of housing support, including aids and adaptions
    - Day services
    - Local area co-ordination
    - Respite provision
    - Occupational therapy services
    - Re-ablement services, equipment and telecare

5. The Regulations list, within the schedule, the statutory functions of Local Authorities that relate to these services. Where a particular function provides a legal basis for a slightly broader range of services, the Regulations aim to clarify that the function is only required to be delegated to the extent that it is exercisable in relation to such of the services listed above as are relevant. For example, for section 92 of the Housing (Scotland) Act 2001, there is a specific limitation, set out in column B of the schedule,

which confines this to the provision of aids and adaptations. Definitions which relate to those aspects of housing support services and aids and adaptations that must be delegated have been provided to clarify the services that are included in the above list. Wider local authority functions, for example those relating to housing services such as homelessness, and those relating to childrens services, have not been included in the Regulations..

6. The Regulations do not restrict the flexibility for a Local Authority to delegate additional services to an Integration Authority, provided that these relate to the functions listed in the schedule to the Act. The Act provides a clear limitation, in primary legislation, on the Local Authority services that may be included in joint working arrangements established under the Act.

7. In response to comments arising from the consultation process some amendments have also been made, under section 1(12) of the Act, to the schedule to the Act. Regulation 3 sets out these amendments, which remove statutory functions relating to local authority charging for social care services from the list in the schedule. This gives effect to the policy, developed in conjunction with key stakeholders, including COSLA, that the power to set charges should remain a function of Local Authorities, and should not be able to be included in joint working arrangements made under the Act. .

Consultation

8. A public consultation took place, running from 12 May 2014 to 1 August 2014 and 172 responses were submitted in total. Where we received permission to do so, the responses to the consultation have been published on the Scottish Government website. It includes responses from Health Boards, local authorities, representative bodies, third sector and carers organisations.

Impact Assessments

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. A Business and Regulatory Impact Assessment was completed on the Public Bodies (Joint Working) (Scotland) Bill and a summary was published. To view the Business and Regulatory Impact Assessment click here. No additional issues arise as a result of this instrument.

Scottish Government
Directorate for Health and Social Care Integration
Integration and Reshaping Care Division