

Title/Subject: Amendment to Integration Scheme
Meeting: Integration Joint Board
Date: 6 April 2018
Submitted By: Chief Governance Officer, Falkirk Council
Action: For Noting

1. INTRODUCTION

- 1.1 This report advises the IJB of amendments proposed to the Integration Scheme by the Council and the Health Board.

2. RECOMMENDATION

The IJB is asked to:

- 2.1 note the proposed amendments to the scheme

3. BACKGROUND

- 3.1 The Integration Scheme which was agreed between the Council and the Health Board and subsequently approved by the Scottish Ministers is the core document that establishes the Integration Joint Board (IJB). Importantly, it governs the range of functions that are delegated to the IJB by the Council and the Health Board.

- 3.2 Regulations made under the Public Bodies (Joint Working) (Scotland) Act 2014 set out a minimum level of functions that required to be delegated to an IJB. Since the Integration Scheme was agreed, a significant new piece of legislation, the Carers (Scotland) Act 2016, has been enacted and came into force in April 2018. This, in turn, required consideration of which of the functions under the 2016 Act should be delegated to the IJB.

3.3 Council Delegation

The group of functions that required to be delegated to an IJB is set out in the Public Bodies (Joint Working) (Prescribed Local Authority Functions) (Scotland) Regulations 2014. The expansion of the mandatory lists to include functions under the Carers' Act left only one function in relation to the Act where there was a decision to be made in relation to delegation. At its December meeting, Council agreed that it was not appropriate to delegate the function in relation to young carers' statements as it would not be helpful to isolate one strand of provision within Children and Social Work Services and delegate it to the IJB. Following consultation, the Council maintained this position at its meeting on 7 March 2018.

3.4 Health Board Delegation

At its meeting on 30 January, the Health Board took a similar view in relation to young carers' statements. It decided, however, that it would be appropriate to delegate the function in relation to the preparation of the local carers' strategy to the IJB in the same way as the Council had done. At its meeting on 27 March 2018 it maintained that position.

4. CONSIDERATIONS

- 4.1 The next stage is for the amended scheme to be submitted to the Scottish Ministers.

5 CONCLUSIONS

The report advises the IJB of proposals by the Council and the Health Board to give effect to the legislative requirement to make changes to the Integration Scheme. The annexes to the scheme with the additional functions highlighted are attached.

Resource Implications

Any budget associated with functions to be delegated form part of the payment by Council and the Health Board to the IJB.

Impact on IJB Outcomes and Priorities

There is no adverse impact on the IJB outcomes and priorities

Legal & Risk Implications

The proposed amendment gives effect to a legal requirement on the Council and the Health Board.

Consultation

Consultation has been taken to the Strategic Planning Group

Equalities Assessment

No Equality issue arises from the subject matter of the report.

Approved for Submission by: Chief Governance Officer, Falkirk Council

Author – Colin Moodie

Date: 27 March 2018

List of Background Papers: The papers that may be referred to within the report or previous papers on the same or related subjects.

Annex 1

Part 1

Functions delegated by the Health Board to the Integration Joint Board

Note

In accordance with paragraphs 3.1 and 3.2 of the Scheme, each function listed in column A is delegated subject to the exceptions in column B and only to the extent that:

- (a) it is exercisable in relation to persons of at least 18 years of age (other than functions exercisable in relation to the health care services set out in paragraphs 11 to 15 of Section B of Part 2 of Annex 1 which are delegated in relation to persons of any age); and*
- (b) the function is exercisable in relation to care or treatment provided by health professionals for the purpose of health care services listed in Section A of Part 2 of Annex 1; or*
- (c) the function is exercisable in relation to the health care services listed in Section B of Part 2 of Annex 1.*

<i>Column A</i>	<i>Column B</i>
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	<p>Except functions conferred by or by virtue of—</p> <p>section 2(7) (Health Boards);</p> <p>section 2CB (Functions of Health Boards outside Scotland);</p> <p>section 9 (local consultative committees);</p> <p>section 17A (NHS Contracts);</p> <p>section 17C (personal medical or dental services);</p> <p>section 17I (use of accommodation);</p> <p>section 17J (Health Boards' power to enter into general medical services contracts);</p> <p>section 28A (remuneration for Part II services);</p> <p>section 38 (care of mothers and young children);</p> <p>section 38A (breastfeeding);</p>

section 39 (medical and dental inspection, supervision and treatment of pupils and young persons);

section 48 (provision of residential and practice accommodation);

section 5 (hospital accommodation on part payment);

section 57 (accommodation and services for private patients);

section 64 (permission for use of facilities in private practice);

section 75A (remission and repayment of charges and payment of travelling expenses);

section 75B (reimbursement of the cost of services provided in another EEA state);

section 75BA (reimbursement of the cost of services provided in another EEA state where expenditure is incurred on or after 25 October 2013);

section 79 (purchase of land and moveable property);

section 82 (use and administration of certain endowments and other property held by Health Boards);

section 83 (power of Health Boards and local health councils to hold property on trust);

section 84A (power to raise money, etc., by appeals, collections etc.);

section 86 (accounts of Health Boards and the Agency);

section 88 (payment of allowances and remuneration to members of certain bodies connected with the health services);

section 98 (charges in respect of non-residents);
and

paragraphs 4, 5, 11A and 13 of Schedule 1 to the Act (Health Boards);

and functions conferred by—

The National Health Service (Charges to Overseas Visitors) (Scotland) Regulations 1989;

The Health Boards (Membership and Procedure) (Scotland) Regulations 2001/302;
The National Health Service (Clinical Negligence and Other Risks Indemnity Scheme) (Scotland) Regulations 2000/54;

The National Health Services (Primary Medical Services Performers Lists) (Scotland) Regulations 2004/114;

The National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2004;

The National Health Service (Discipline Committees) Regulations 2006/330;

The National Health Service (General Ophthalmic Services) (Scotland) Regulations 2006/135;

The National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009/183;

The National Health Service (General Dental Services) (Scotland) Regulations 2010/205; and

The National Health Service (Free Prescription and Charges for Drugs and Appliances) (Scotland) Regulations 2011/55.

Disabled Persons (Services, Consultation and Representation) Act 1986

Section 7

(Persons 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.

Except functions conferred by—

section 22 (Approved medical practitioners);

section 34 (Inquiries under section 33: co-operation);

section 38 (Duties on hospital managers: examination notification etc.);

section 46 (Hospital managers' duties: notification);

section 124 (Transfer to other hospital);

section 228 (Request for assessment of needs: duty on local authorities and Health Boards);

section 230 (Appointment of a patient's responsible medical officer);

section 260 (Provision of information to patients);

section 264 (Detention in conditions of excessive security: state hospitals);

section 267 (Orders under sections 264 to 266: recall);

section 281 (Correspondence of certain persons detained in hospital);

and functions conferred by—

The Mental Health (Safety and Security) (Scotland) Regulations 2005;

The Mental Health (Cross Border transfer: patients subject to detention requirement or otherwise in hospital) (Scotland) Regulations 2005;

The Mental Health (Use of Telephones) (Scotland) Regulations 2005; and

The Mental Health (England and Wales Cross border transfer: patients subject to detention requirement or otherwise in hospital) (Scotland) Regulations 2008.

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

Section 23
(other agencies etc. to help in exercise of functions under this Act)

Public Services Reform (Scotland) Act 2010

All functions of Health Boards conferred by, or by virtue of, the Public Services Reform (Scotland) Act 2010

Except functions conferred by—

section 31 (Public functions: duties to provide information on certain expenditure etc.); and

section 32 (Public functions: duty to provide information on exercise of functions).

Patient Rights (Scotland) Act 2011

All functions of Health Boards conferred by, or by virtue of, the Patient Rights (Scotland) Act 2011

Except functions conferred by The Patient Rights (Complaints Procedure and Consequential Provisions) (Scotland) Regulations 2012/36.

Carers (Scotland) Act 2016

Section 31 (Duty to prepare local carer strategy).

Only insofar as it relates to adults.

Annex 1

Part 2

Services currently provided by the Health Board which are to be integrated

Section A

1. Accident and Emergency services provided in a hospital.
2. Inpatient hospital services relating to the following branches of medicine—
 - (a) general medicine;
 - (b) geriatric medicine;
 - (c) rehabilitation medicine;
 - (d) respiratory medicine; and
 - (e) psychiatry of learning disability.
3. Palliative care services provided in a hospital.
4. Inpatient hospital services provided by General Medical Practitioners.
5. Services provided in a hospital in relation to an addiction or dependence on any substance.
6. Mental health services provided in a hospital, except secure forensic mental health services.

Section B

7. District nursing services.
8. Services provided outwith a hospital in relation to an addiction or dependence on any substance.
9. Services provided by allied health professionals in an outpatient department, clinic, or outwith a hospital.
10. The public dental service.
11. Primary medical services provided under a general medical services contract, and arrangements for the provision of services made under section 17C of the National Health Service (Scotland) Act 1978, or an arrangement made in pursuance of section 2C(2) of the National Health Service (Scotland) Act 1978.
12. General dental services provided under arrangements made in pursuance of section 25 of the National Health (Scotland) Act 1978.
13. Ophthalmic services provided under arrangements made in pursuance of section 17AA or section 26 of the National Health Service (Scotland) Act 1978.
14. Pharmaceutical services and additional pharmaceutical services provided under arrangements made in pursuance of sections 27 and 27A of the National Health Service (Scotland) Act 1978.
15. Services providing primary medical services to patients during the out-of-hours period.
16. Services provided outwith a hospital in relation to geriatric medicine.
17. Palliative care services provided outwith a hospital.
18. Community learning disability services.
19. Mental health services provided outwith a hospital.
20. Continence services provided outwith a hospital.

- 21.** Kidney dialysis services provided outwith a hospital.
- 22.** Services provided by health professionals that aim to promote public health.

Annex 2

Part 1

Functions delegated by the Local Authority to the Integration Joint Board

Note

In accordance with paragraphs 3.3 and 3.4 of the Scheme, each function listed in column A is delegated subject to the exceptions in column B and only to the extent that it is exercisable in relation to persons of at least 18 years of age.

<i>Column A</i> <i>Enactment conferring function</i>	<i>Column B</i> <i>Limitation</i>
National Assistance Act 1948	
Section 48 (Duty of councils to provide temporary protection for property of persons admitted to hospitals etc.)	
The Disabled Persons (Employment) Act 1958	
Section 3 (Provision of sheltered employment by local authorities)	
The Social Work (Scotland) Act 1968	
Section 1 (Local authorities for the administration of the Act.)	So far as it is exercisable in relation to another integration function.
Section 4 (Provisions relating to performance of functions by local authorities.)	So far as it is exercisable in relation to another integration function.
Section 8 (Research.)	So far as it is exercisable in relation to another integration function.
Section 10 (Financial and other assistance to voluntary organisations etc. for social work.)	So far as it is exercisable in relation to another integration function.
Section 12 (General social welfare services of local authorities.)	Except in so far as it is exercisable in relation to the provision of housing support services.
Section 12A (Duty of local authorities to assess needs.)	So far as it is exercisable in relation to another integration function.

<i>Column A</i> <i>Enactment conferring function</i>	<i>Column B</i> <i>Limitation</i>
Section 12AZA (Assessments under section 12A - assistance)	So far as it is exercisable in relation to another integration function.
Section 13 (Power of local authorities to assist persons in need in disposal of produce of their work.)	
Section 13ZA (Provision of services to incapable adults.)	So far as it is exercisable in relation to another integration function.
Section 13A (Residential accommodation with nursing.)	
Section 13B (Provision of care or aftercare.)	
Section 14 (Home help and laundry facilities.)	
Section 28 (Burial or cremation of the dead.)	So far as it is exercisable in relation to persons cared for or assisted under another integration function.
Section 29 (Power of local authority to defray expenses of parent, etc., visiting persons or attending funerals.)	
Section 59 (Provision of residential and other establishments by local authorities and maximum period for repayment of sums borrowed for such provision.)	So far as it is exercisable in relation to another integration function.
The Local Government and Planning (Scotland) Act 1982	
Section 24(1) (The provision of gardening assistance for the disabled and the elderly.)	
Disabled Persons (Services, Consultation and Representation) Act 1986	
Section 2 (Rights of authorised representatives of disabled persons.)	
Section 3 (Assessment by local authorities of needs of disabled persons.)	
Section 7 (Persons 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.

<i>Column A</i> <i>Enactment conferring function</i>	<i>Column B</i> <i>Limitation</i>
Section 8 (Duty of local authority to take into account abilities of carer.)	In respect of the assessment of need for any services provided under functions contained in welfare enactments (within the meaning set out in section 16 of that Act) which are integration functions.

The Adults with Incapacity (Scotland) Act 2000

Section 10
(Functions of local authorities.)

Section 12
(Investigations.)

Section 37
(Residents whose affairs may be managed.)

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

Section 39
(Matters which may be managed.)

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

Section 41
(Duties and functions of managers of authorised establishment.)

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

Section 42
(Authorisation of named manager to withdraw from resident's account.)

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

Section 43
(Statement of resident's affairs.)

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

Section 44
(Resident ceasing to be resident of authorised establishment.)

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

Section 45
(Appeal, revocation etc.)

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

The Housing (Scotland) Act 2001

Section 92
(Assistance for housing purposes.)

Only in so far as it relates to an aid or adaptation.

The Community Care and Health (Scotland) Act 2002

Section 5
(Local authority arrangements for of residential accommodation outwith Scotland.)

Section 14
(Payments by local authorities towards expenditure by NHS bodies on prescribed functions.)

<i>Column A</i> <i>Enactment conferring function</i>	<i>Column B</i> <i>Limitation</i>
The Mental Health (Care and Treatment) (Scotland) Act 2003	
Section 17 (Duties of Scottish Ministers, local authorities and others as respects Commission.)	
Section 25 (Care and support services etc.)	Except in so far as it is exercisable in relation to the provision of housing support services.
Section 26 (Services designed to promote well-being and social development.)	Except in so far as it is exercisable in relation to the provision of housing support services.
Section 27 (Assistance with travel.)	Except in so far as it is exercisable in relation to the provision of housing support services.
Section 33 (Duty to inquire.)	
Section 34 (Inquiries under section 33: Co-operation.)	
Section 228 (Request for assessment of needs: duty on local authorities and Health Boards.)	
Section 259 (Advocacy.)	
The Housing (Scotland) Act 2006	
Section 71(1)(b) (Assistance for housing purposes.)	Only in so far as it relates to an aid or adaptation.
The Adult Support and Protection (Scotland) Act 2007	
Section 4 (Council's duty to make inquiries.)	
Section 5 (Co-operation.)	
Section 6 (Duty to consider importance of providing advocacy and other.)	
Section 11 (Assessment Orders.)	
Section 14 (Removal orders.)	
Section 18 (Protection of moved persons property.)	

<i>Column A</i> <i>Enactment conferring function</i>	<i>Column B</i> <i>Limitation</i>
Section 22 (Right to apply for a banning order.)	
Section 40 (Urgent cases.)	
Section 42 (Adult Protection Committees.)	
Section 43 (Membership.)	
Social Care (Self-directed Support) (Scotland) Act 2013	
Section 5 (Choice of options: adults.)	
Section 6 (Choice of options under section 5: assistances.)	
Section 7 (Choice of options: adult carers.)	
Section 9 (Provision of information about self-directed support.)	
Section 11 (Local authority functions.)	
Section 12 (Eligibility for direct payment: review.)	
Section 13 (Further choice of options on material change of circumstances.)	Only in relation to a choice under section 5 or 7 of the Social Care (Self-directed Support) (Scotland) Act 2013.
Section 16 (Misuse of direct payment: recovery.)	
Section 19 (Promotion of options for self-directed support.)	

Carers (Scotland) Act 2016

Section 6

(Duty to prepare adult carer support plan.)

Section 21

(Duty to set local eligibility criteria.)

Section 24

(Duty to provide support)

Section 25

(Provision of support to carers: breaks from caring.)

Section 31

(Duty to prepare local carer strategy.)

Section 34

(Information and advice service to carers.)

Section 35

(Short break services statements.)

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