

Policy Statement – Integration Joint Board
Section 12

Introduction

1. The Public Bodies (Joint Working) (Scotland) Bill (referred to in this statement as ‘the Bill’) gives Scottish Ministers a power in Section 12 to make an order that makes provision for the membership, proceedings, powers and other matters with regard to the integration joint board. Section 12 as introduced sets out;

- 12(1) *The Scottish Ministers may by order make provision –*
- a) *about the membership of integration joint boards,*
 - b) *about the proceedings of integration joint boards,*
 - c) *giving integration joint boards general powers (such as powers to contract, acquire or dispose of property or rights or borrow money or incur other liabilities) in connection with the carrying out of their functions,*
 - d) *about the supply of services or facilities to integration joint boards by their constituent authorities,*
 - e) *about any other matter relating to the establishment or operation of integration joint boards that the Scottish Ministers think fit.*
- (2) *Without prejudice to section 49(1)(a), an order under this section may make different provision in relation to different integration joint boards.*
- (3) *The Scottish Ministers may by scheme make provision about the transfer to an integration joint board of staff, property, rights, liabilities or obligations of a constituent authority.*

By virtue of section 49(4) of the Bill, orders under this section will be subject to the negative procedure.

The Scottish Government intend to propose amendments at Stage 2 to this section which will have the effect of broadening the scope of Ministers’ powers under section 12.

The effect of these amendments would be to confer an additional power on Ministers to make provision by order:

- a) *enabling integration joint boards to establish committees for any purpose,*
- b) *about such other matters relating to any such committee as the Scottish Ministers think fit, and*
- c) *enabling an integration joint board to delegate to its chief officer, any other member of its staff or any such committee functions delegated to the integration joint board in pursuance of an integration scheme.*

Integration Joint Board

2. The Bill requires Health Boards and local authorities to agree a model of integration. Where partners agree to put in place a Body Corporate, an integration joint board will be established to oversee the integrated arrangements and onward service delivery. The integration joint board will exercise control over a significant number of functions and a significant amount of resource. It is essential that the process of how the Board will operate, and by whom, is set out within an order to put in place the robust arrangements required for this level of responsibility over public services and finances.

3. In the first instance, Scottish Ministers intend to use the powers set out in Section 12 to create the appropriate order to achieve this level of assurance and give the integration joint board the necessary powers to discharge its functions. This will largely draw on powers in Section 12(a), (b) and (e) to set out the standard arrangements for integration joint boards as concerning their membership and proceedings. Ministers also intend to limit the use of the powers in Section 12(1)(c), (d) and (3) to allow integration joint boards to enter into agreements or contracts which are necessary for them to carry out their duties under the Bill. For example, as part of the preparation and implementation of a strategic plan, it is likely that an integration joint board will require to receive professional advice, such as legal or accounting advice, or when making arrangements in relation to premises, equipment and staff, among other things.

4. The powers in Section 12 would also be used if local partners and Scottish Ministers agree to empower an integration joint board to deliver services in the exercise of integrated functions at some point in the future. Scottish Ministers have confirmed their intention that integration joint boards will not be empowered in this way in the first instance. This policy statement therefore, focuses on the orders that Scottish Ministers intend to make under Section 12 in the first instance and does not consider the possible future use of orders under section 12 in relation to empowerment of these bodies to deliver services.

Proposed provisions to the membership and proceedings of the integration joint board

Membership of the integration joint board

5. Scottish Ministers intend to set out in the order two categories of membership for the integration joint board. The first category is voting members, made up of representatives nominated by the Health Board and the local authority. The second category is non-voting advisory members of the integration joint board.

Voting members of the integration joint board

6. The Body Corporate model of integration creates a new legal entity that binds the Health Board and the local authority together into a joint

arrangement in which they are equal partners. The voting membership of the integration joint board is to reflect this equality in its membership arrangements to ensure that there is joint decision making on the Board.

7. Following consultation with stakeholders, policy work has been taken forward to strike the right balance with regards to how the voting membership should be established. It is intended that the order will reflect the following arrangements:

- The local authority and the Health Board must nominate the same number of representatives to sit on the integration joint board;
- The Health Board and the local authority must agree on the number of representatives that they will each nominate, subject to the provision described below;
- They must put forward a minimum of three nominees each, and local authorities can insist on a maximum of 10% of their full council number.
- The local authority will nominate councillors to sit on the integration joint board;
- The Health Board will nominate non-executive directors to sit on the integration joint board;
- Where the Health Board is unable to fill all their places with non-executive directors they can then nominate other appropriate people to fill their spaces (such as GPs or other clinical staff) but these people will require the approval of Scottish Ministers;
- Where Health Boards intend to nominate ‘other appropriate people’ to an integration joint board they would need to submit the list of proposed nominees to the Scottish Ministers with the integration plan when it is sent for approval.
- After this time, Health Boards would need to submit proposed nominations to Scottish Ministers for approval as and when they arise;
- Where Ministers have approved a nominee, the Health Board would need to obtain Ministerial approval to remove the members from the integration joint board.
- A Health Board must have at least two non-executive directors on each of the integration joint boards created within their geographical area.

8. The Scottish Ministers intend to use the power under section 1(4)(e) to require the Health Board and local authority to set out in the integration plan the detail of these arrangements agreed locally.

Non-voting members of the integration joint board

9. The integration joint board will make decisions about how health and social care services are planned and delivered for the communities within their areas. To do this effectively, they will require professional advice, for example, to ensure that the decisions reflect sound clinical and financial practice. It is also essential that integration joint boards have a duty to include key stakeholders within the decision making processes to take advantage of their advice and experience. The intention is to set out a minimum requirement for advisory membership in the order, and to allow local flexibility

to add additional nominations as the Health Board and local authority see fit. It is intended that the minimum advisory membership required will be:

- The identified Clinical Director of the Health Board;
- The Chief Social Work Officer of the constituent local authority;
- The Health Board Director of Finance or the local authority Section 95 Officer;
- A staff-side representative;
- A third sector representative;
- A carer representative;
- A service user representative;
- The Chief Officer of the integration joint board appointed under section 10(1) of the Bill.

10. The ways in which the members of the integration joint board are to be identified and appointed to the Board will differ. The first three are professional officers of the Health Board or the local authority and will be appointed because of the role they fulfil. It is intended that the integration joint board co-opt the staff-side, third sector, carer and service user representative once the integration joint board is established. The Scottish Government will provide guidance about the most appropriate way of doing this and if there are key groups that should be involved.

11. Locally, the integration joint board might wish to add additional non-voting members in an advisory capacity, perhaps because they are a key stakeholder locally or because they would seek more representation from a particular group. Alternatively, this might occur because the integration joint board have included functions outwith the minimum scope and they require additional professional advice; for example, from children's services or housing.

12. The integration joint board will have the ability to co-opt further non-voting members as they see fit.

Chair and Vice Chair

13. It is intended that the chair and vice chair will be drawn from the voting membership. If a local authority nominated member is to serve as chair, then it is intended that the vice chair will be a member nominated by the Health Board and vice versa. It is intended that the member of the Integration joint board drawn from the Health Board who will serve as chair/vice chair is a non-executive Director. It is intended that the chair will have a casting vote, and the Scottish Government will provide guidance regarding the use of the casting vote.

14. It is intended that the appointment to chair and vice chair will be time-limited and that they rotate at least every three years. It is intended that if, at the end of this period, a local authority nominated member has served as chair, a Health Board nominated member (who is also a non-executive director) will then be elected to the chair and vice versa.

15. Health Boards and local authorities will need to agree who will serve as chair and vice chair and the period for which they will serve (if less than three years) and then rotate. Scottish Ministers intend to use the power set out in Section 1(4)(e), to require that this is included within the integration plan.

Removal of voting members

16. It is intended that the order will provide a mechanism for Health Boards and local authorities to remove and replace the voting members that are drawn from their respective organisations. The only exception to this will be if the Health Board has sought approval from Scottish Ministers to put forward a member who is not a non-executive director. In these circumstances, it is intended that the Health Board will be required to seek approval from Scottish Ministers to remove the member from the integration joint board.

17. The Health Board and the local authority will not be able to remove members that are drawn from each other's organisations, so the Health Board could not remove a councillor who has been chosen to serve as a member by the local authority and vice versa.

18. It is intended that where the Health Board or the local authority remove a board member then they must nominate a new member at the same time. The ability of the Health Board and local authority to remove members includes all members including the chair and the vice chair. It is intended that the Health Board and the local authority will not be required to provide reasons for removing a member and can do so at any time but must provide the member with one month's notice of the decision.

19. The provisions in relation to the removal and replacement of voting members are additional to the general provisions set out below. Therefore, it is intended that a voting member can also be removed if they are guilty of a serious breach of the code of conduct, imprisoned for an offence, etc. Removal under these circumstances would be automatic and the Health Board or the local authority would be required to nominate a new member.

Multi-council integration joint boards

20. The Bill provides for a Health Board to enter into integrated arrangements with more than one local authority where there is more than one local authority within the Health Board's area. The current permutations of multi-council arrangements range from two local authorities to one Health Board, to six local authorities to one Health Board.

21. It is currently intended that the order setting out general requirements for integration joint boards will apply only where an integration plan has been prepared by one Health Board and one local authority. Given the complexity of describing the permutations of multi-local authority integration joint boards, the provisions of the order that relate to membership, voting and chairing will not apply to integration plans involving more than one local authority.

22. It is intended that in this circumstance the Health Board and the local authority will be required to present to the Scottish Ministers a proposal of how the governance arrangements will work (including the membership, the voting and chairing of the integration joint board). A proposed provision will be made in an order under section 1(4)(e) requiring details of these arrangements to be set out in the integration plan so that the Scottish Ministers may take it into account when deciding whether to approve the integration plan.

Engaging in contracts

23. It will be necessary for the integration joint board to have powers to enter into contracts so that they can seek professional advice and assistance, and make arrangements for staff and premises to carry out its functions. It is intended that the order will give such powers to the integration joint board so that it is able to discharge its functions under the Bill.

Financial Advice

24. Scottish Ministers intend to require that the Health Board and the local authority agree a financial management and reporting process for the integrated budget and set this out within the integration plan. To further strengthen the requirements for financial management, the Scottish Ministers intend to include within this order the requirement that the Chief Officer seeks advice from the Health Board Director of Finance and the Local Authority Section 95 Officer on financial matters.

Intended provisions as to general operation of the integration joint board

25. Scottish Ministers intend to include in an order a number of general provisions that will apply to all categories of the integration joint board. The areas noted below mirror those in the Health Board (Membership and Procedure) (Scotland) Regulations 2001 and The Community Health Partnership (Scotland) Regulations 2004.

Term of Office

26. It is intended to restrict the length of time that members can sit on the integration joint board to three years, and make a provision to provide that would enable a member to be eligible for re-nomination. Members who have membership due to the position that they hold, such as the Chief Social Work Advisor, will automatically be re-nominated while they remain in post.

Expenses of members

27. It is intended that the integration joint board will have the ability to pay any reasonable expenses (travel and subsistence) that members incur as they carry out the business associated with their membership of the board.

Committee structure

28. It is intended to allow the integration joint board to put in place a sub-committee structure should that be desirable.

Resignation and removal of members

29. It is intended that members will be able to resign their membership of the integration joint board at any time during their term in office by giving notice to the chair of the integration joint board. The integration joint board would need to inform the relevant Health Board or local authority should that member be a voting member. If a member misses three consecutive meetings then the integration joint board will be able to remove the member, if it is satisfied the absences were not due to illness. If this occurs in the case of a voting member, the integration joint board will need to seek agreement from the Health Board or the local authority. It is intended that, if a member brings the integration joint board into disrepute through their actions, they can be removed from the integration joint board.

Disqualification

30. It is intended that the order will set out those that are disqualified from being nominated or co-opted as a member of the integration joint board and will include those who have been imprisoned for longer than three months, dismissed (other than being made redundant) from a Health Board or a local authority, have been declared bankrupt or have been struck off as a practising health or social care professional.

Proceedings

31. It is intended that the order will require each integration joint board to make standing orders for the carrying out of the business of the integration joint board that will include, but are not restricted to:

- Calling of meetings;
- Notice of meetings;
- Quorum;
- Conduct of meetings;
- Conflict of Interest;
- Records.

The Scottish Government
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