



Draft Regulations relating to Public Bodies (Joint Working) (Scotland) Act – Set 2

UNISON Scotland's Draft Submission to the Scottish Government on their Consultation on the Draft Regulations relating to the Public Bodies (Joint Working) Scotland Act – Set 2

July 2014

Introduction

UNISON is Scotland's largest trade union representing over 155,000 members working in the public sector. We represent over 60,000 health staff as well as social workers, social care staff, who are part of adult health and social care workforce, many of whom will be affected by the Scottish Government's proposals. We also represent members working in care in the community and voluntary sector.

UNISON Scotland welcomes the opportunity to respond to the Scottish Government on their consultation.

Questions

1. PRESCRIBED GROUPS WHICH MUST BE CONSULTED WHEN PREPARING OR REVISING INTEGRATION SCHEMES; PREPARING DRAFT STRATEGIC PLANS; AND WHEN MAKING DECISIONS AFFECTING LOCALITIES RELATING TO THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

CONSULTATION QUESTIONS

1. Do these draft Regulations include the right groups of people?

Yes

No

2. If no, what other groups should be included within the draft Regulations?

3. Are there any further comments you would like to offer on these draft Regulations?

UNISON would like more information on which health and social care professionals are to be included for consultation when preparing or revising integration schemes and draft strategic plans. For example we wish to know whether it will just be officials or members of staff who are involved in implementing integration. Also we wish to know how it is intended to choose these individuals. Staff involved in implementing the Act are represented by specific trade unions and we would wish them to be involved in the selection process.

We believe it is important that the individuals concerned should have accountability to the groups who they represent and this would be the case if the relevant trade unions were involved.

2. MEMBERSHIP, POWERS AND PROCEEDINGS OF INTEGRATION JOINT BOARDS ESTABLISHED UNDER THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

CONSULTATION QUESTIONS

1. Are there any additional non-voting members who should be included in the Integration Joint Board?

Yes

No

2. If you answered 'yes', please list those you feel should be included:

UNISON believes it is important that a staff side representative is included from both the health board and the social care workforce of the local authority. We believe the health board representative should be the employee director which would give continuity. As indicated above in question 1.3, these members should be accountable to the staff they represent, so we believe that the trade unions should be involved in the decisions as to who is appointed.

Our health members believe that in particular that these regulations raise a number of concerns:

The consultation document states:

'to be a member of the new board you have to be a member of the Health Board or a Councillor'.

This is in total contradiction to the agreed current format of the Shadow Boards which have been established in some areas.

The composition of the Boards have been already agreed by both organisations in the area and are made up of equal members of each organisation which does not breach staff governance standards.

In the area, the members from the Health Board have been nominated by the Health Board in agreement with the Partnership Forum, ensuring staff governance is of high priority and is monitored through an agreed committee structure. These can be employees, staff side or non executive members of the Health Board.

If the proposed regulations are enforced then Partnership working would be compromised and the staff governance standard may not be adhered to. The Staff Governance Standard states staff must be fully involved in any decision making. Every other decision making committee within most Boards has full Partnership involvement. This new proposed committee structure would therefore not be recognised as it would breach the Standard.

It also could mean that Councillors could predominately be the majority seat holders as councillors are non executives within Health Boards and would be entitled under these rules to sit on Integration Joint Boards as Health Board Members. This could result in a conflict of interest in decision making within the new committee structure and could result in Health Staff being disadvantaged within the new boards and could be crucial to the success of the new Partnership.

This effectively means that no discussion or agreement could be made in these Boards in line with agreed Staff Governance Standards.

It has been surprising to see that this has been included in the regulations for consultation as all through the integration process discussions this was never the stand taken by the Scottish Government.

The Cabinet Minister for Health has clearly stated publicly that Partnership working has been seen as world class and Staff Governance is of high priority and would not be compromised. The inclusion of this statement contradicts what has been previously advised by the Scottish Government.

In addition, an e-mail from Peter Johnston(CoSLA) confirms this as follows:

“I have taken the opportunity to raise the membership of the board issue with the Cab Secy. He was not aware that the offending sentence had been added and has told me that he is not pushing for this. His view is that he will be happy to give a letter of appointment to joint boards to individuals who are not NHS Board members.”

Regretfully if the New Integrated Boards were set up under these terms then they would not be recognised by Staff Side in Health as Boards that could make any decisions

It is unlikely that any staff side member would sit on the New Boards if they were not there as a voting member.

There appears to be total disregard for the Staff Governance Standard within the document and there was an expectation that the Regulations would state the Boards should be made up of equal partners from Health and Council and members nominated by both organisations would take up the voting seats. To ensure Staff Governance within Health is maintained, one of the voting seats would require to be held by a Staff Side member.

This existing wording would fundamentally see all Health Boards who currently work in a Partnership model agreed by the Scottish Government being put in jeopardy.

This is not how Health Staff Sides would want to embark on the new model for Health and Social Care Integration but we would be given no option as in their current format these regulations breach the Staff Governance Standard.

We believe the wording should include there being equal partners between Health and Councils with nominations of the Board Members made by either organisation. This would ensure both organisations' existing working arrangements were recognised.

In addition, some of our council members point out that councillors are appointed to local authorities to serve a four year term and would suggest that elected members appointed to an Integration Joint Board (IJB) should be similarly appointed. A three year term would lead to elected members then having to be reappointed for a further one year to the IJB during the period of their four year term which would not be the most efficient of arrangements. Neither do they agree with the proposal that councillors who fail to gain re-election to a local authority should be able to remain as a member of an IJB.

3. Are there any other areas related to the operation of the Integration Joint Board that should also covered by this draft Order?

4. Are there any further comments you would like to offer on this draft Order?

3 ESTABLISHMENT, MEMBERSHIP AND PROCEEDINGS OF INTEGRATION JOINT MONITORING COMMITTEES ESTABLISHED UNDER THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

Consultation Questions

1. Do you agree with the proposed minimum membership of the integration joint monitoring committee, as set out in the draft Order?

Yes

No

2. If you answered 'no', please list those you feel should be included:

As outlined above UNISON believes that there should be a equal staff side representation from both the health board and the local authority.

3. Are there any other areas related to the operation of the integration joint monitoring committee that should also covered by the draft Order?

4. Are there any further comments you would like to offer on this draft Order?

4. PRESCRIBED MEMBERSHIP OF STRATEGIC PLANNING GROUPS ESTABLISHED UNDER THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

CONSULTATION QUESTIONS

1. The draft Regulations prescribe the groups of people that should be represented on the strategic planning group. Do you think the groups of people listed are the right set of people that need to be represented on the strategic planning group?

Yes

No

2. If no, what changes would you propose?

UNISON believes that staff side representatives from both health and social care should be prescribed members of the strategic planning groups.

Again, as above, we would wish clarification as to which health and social care professionals will be included as part of the groups, e.g. will it be officials or individual members of staff?

We also would like to know how it is intended to choose these individuals. Staff involved in implementing the Act are represented by specific trade unions and we would wish them to be involved in the selection process. Again as stated above, this would give accountability to the groups they represent.

UNISON believes that the membership should cover engagements with staff, patients, the third sector, GPs, etc.

3. Are there any further comments you would like to offer on these draft Regulations?

We have concerns that a representative of the third sector who carries out health and social care activities could point to a potential conflict of interest if involved in commissioning and tendering for some services where this person could have an unfair advantage for their organisation. In terms of fair procurement there should be systems put in place to prevent this from happening.

5. PRESCRIBED FORM AND CONTENT OF PERFORMANCE REPORTS RELATING TO THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

CONSULTATION QUESTIONS

1. Do you agree with the prescribed matters to be included in the performance report?

Yes

No

2. If no, please explain why:

3. Are there any additional matters you think should be prescribed in the performance report?

Yes

No

4. If yes, please tell us which additional matters should be prescribed and why:

UNISON believes staff governance should be included in the performance reports, along with workforce development.

5. Should Scottish Ministers prescribe the form that annual performance reports should take?

Yes

No

6. If you answered yes, what form should Scottish Ministers prescribe?

7. Are there any further comments you would like to offer on these draft Regulations?

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Links:

<http://www.scotland.gov.uk/Publications/2014/05/6659>

http://www.unison-scotland.org.uk/briefings/b055_BargainingBrief_CareIntegrationRegs2_June2014.pdf