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**Report to Council**

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**Date of Meeting:**      **8 March 2018**

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**Subject:**                    **Carers (Scotland) Act 2016 – Delegation of Functions to the Integration Joint Board**

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**Report by:**                **Head of Resources & Governance**

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**1.0 Purpose**

- 1.1. This report is to update Council about an amendment to the regulations which govern the delegation of local authority functions to the Integrated Joint Board (IJB). The amendment follows on from the enactment of the Carers (Scotland) Act 2016. The amendment of the regulations has required some revision to the schedule to the Integration Scheme which sets out the functions which are delegated to the IJB. The revised Integration Scheme requires Council approval.

**2.0 Recommendations**

- 2.1. It is recommended that Council:
- 2.2. Note the functions set out in the regulations which require to be delegated by Council to the IJB by way of an amendment to the Integration Scheme
- 2.3. Note that there has been a short consultation with stakeholders in relation to the change to the Integration Scheme
- 2.4. Approve the amendment to the Integration Scheme which formally delegates the functions set out in paragraph 3.2.1 – 3.2.6 below and in terms of Appendix 1
- 2.5. Note that after Council approval the Integration Scheme will be submitted to the Scottish Government.

**3.0 Considerations**

- 3.1. The Carers (Scotland) Act 2016 (the Act) comes into force on 1 April 2018. The Act is designed to support carers' health and wellbeing and as such it puts new duties in place which will support those in a caring role. In order to implement the Act there have been changes made to the regulations which set out the functions which must be delegated to the IJB by local authorities. The new version of the regulations came into force on 18 December 2017.

- 3.2. The new regulations require local authorities to delegate the following functions to the IJB:-
- 3.2.1. Section 6 duty to prepare adult carer support plan
  - 3.2.2. Section 24 duty to provide support
  - 3.2.3. Section 25 provision of support to carers ; breaks from caring
  - 3.2.4. Section 31 Duty to prepare local carer strategy
  - 3.2.5. Section 34 information and advice service for carers
  - 3.2.6. Section 35 short breaks service statement
- 3.3 There are a similar set of regulations which required the health board to determine which functions they will require to delegate to the IJB. NHS Forth Valley's Board has now determined the functions which it will delegate to the IJB.
- There is a requirement to consult on any proposed changes to the Integration Scheme, even in these circumstances, and defined consultees include:
- Health and social care professionals;
  - Users of health and/or social care;
  - Carers of users of health and/or social care;
  - Non-commercial and commercial providers of health and/or care;
  - Non-commercial providers of social housing;
  - Third Sector bodies carrying out activities related to health or social care;
  - Staff of the Local Authority and Health Board likely to be affected by the Integration Scheme
- 3.4 There has been a short online consultation process. This was considered appropriate given that the changes proposed to the Integration Scheme are statutory and there is no discretion for local authorities in terms of what they can delegate.
- 3.5 Once the changes to the Integration Scheme have been approved by Council the Integration Scheme will be submitted to the Scottish Government. All of the other local authorities across Scotland are amending their schemes in the same way to take account of the changes brought about by the Act. The IJB will also receive a report to its March meeting with an update on progress amending the Integration Scheme.

## **4.0 Sustainability Implications**

- 4.1. None

## **5.0 Resource Implications**

### *5.1. Financial Details*

5.2. The full financial implications of the recommendations are set out in the report. This includes a reference to full life cycle costs where appropriate. Yes x

5.3. Finance has been consulted and have agreed the financial implications as set out in the report. Yes X

### *5.4. Staffing*

## **6.0 Exempt Reports**

6.1. Is this report exempt? Yes  (please detail the reasons for exemption below) No X

## **7.0 Declarations**

The recommendations contained within this report support or implement our Corporate Priorities and Council Policies.

(1) **Our Priorities** (Please double click on the check box )

Clackmannanshire will be attractive to businesses & people and ensure fair opportunities for all

Our families; children and young people will have the best possible start in life

Women and girls will be confident and aspirational, and achieve their full potential

Our communities will be resilient and empowered so that they can thrive and flourish

(2) **Council Policies** (Please detail)

**None**

## **8.0 Equalities Impact**

8.1 Have you undertaken the required equalities impact assessment to ensure that no groups are adversely affected by the recommendations?

Yes  No X

## **9.0 Legality**

9.1 It has been confirmed that in adopting the recommendations contained in this report, the Council is acting within its legal powers. Yes X

## **10.0 Appendices**

- 10.1 Please list any appendices attached to this report. If there are no appendices, please state "none".

Appendix 1 Revised Integration Scheme

**11.0 Background Papers**

- 11.1 Have you used other documents to compile your report? (All documents must be kept available by the author for public inspection for four years from the date of meeting at which the report is considered)

Yes  (please list the documents below) No

**Author(s)**

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**Approved by**

NAME	DESIGNATION	SIGNATURE
Stephen Coulter	Head of Resources and Governance	[REDACTED]
Nikki Bridle	Depute Chief Executive	[REDACTED]

## **Annex 2**

### **Part 1**

#### **Functions delegated by the Local Authority to the Integration Joint Board**

Set out below is the list of functions that must be delegated by the local authority to the Integration Joint Board as set out in the Public Bodies (Joint Working) (Prescribed Local Authority Functions etc.) (Scotland) Regulations 2014. Further local authority functions can be delegated as long as they fall within the relevant sections of the Acts set out in the Schedule to the Public Bodies (Joint Working) (Scotland) Act 2014;

**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.*

### **SCHEDULE Regulation 2**

#### **PART 1**

Functions prescribed for the purposes of section 1(7) of the Public Bodies (Joint Working) (Scotland) Act 2014

<i>Column A</i> <i>Enactment conferring function</i>	<i>Column B</i> <i>Limitation</i>
<b>National Assistance Act 1948()</b>	
Section 48 (Duty of councils to provide temporary protection for property of persons admitted to hospitals etc.)	
<b>The Disabled Persons (Employment) Act 1958()</b>	
Section 3 (Provision of sheltered employment by local authorities)	
<b>The Social Work (Scotland) Act 1968()</b>	

<i>Column A</i> <i>Enactment conferring function</i>	<i>Column B</i> <i>Limitation</i>
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.
Section 12AZA (Assessments under section 12A - assistance)	So far as it is exercisable in relation to another integration function.
<del>Section 12AA (Assessment of ability to provide care.)</del>	
<del>Section 12AB (Duty of local authority to provide information to carer.)</del>	
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.)	

<i>Column A</i> <i>Enactment conferring function</i>	<i>Column B</i> <i>Limitation</i>
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.
<b>The Local Government and Planning (Scotland) Act 1982()</b>	
Section 24(1) (The provision of gardening assistance for the disabled and the elderly.)	
<b>Disabled Persons (Services, Consultation and Representation) Act 1986()</b>	
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.
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.
<b>The Adults with Incapacity (Scotland) Act 2000()</b>	
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.

<i>Column A</i> <i>Enactment conferring function</i>	<i>Column B</i> <i>Limitation</i>
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
<b>The Housing (Scotland) Act 2001()</b>	
Section 92 (Assistance to a registered for housing purposes.)	Only in so far as it relates to an aid or adaptation.
<b>The Community Care and Health (Scotland) Act 2002()</b>	
Section 5 (Local authority arrangements for residential accommodation outwith Scotland.)	
Section 14 (Payments by local authorities towards expenditure by NHS bodies on prescribed functions.)	
<b>The Mental Health (Care and Treatment) (Scotland) Act 2003()</b>	
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.)	

<i>Column A</i> <i>Enactment conferring function</i>	<i>Column B</i> <i>Limitation</i>
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.)	
<b>The Housing (Scotland) Act 2006()</b>	
Section 71(1)(b) (Assistance for housing purposes.)	Only in so far as it relates to an aid or adaptation.
<b>The Adult Support and Protection (Scotland) Act 2007()</b>	
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.)	
Section 22 (Right to apply for a banning order.)	
Section 40 (Urgent cases.)	
Section 42 (Adult Protection Committees.)	
Section 43 (Membership.)	
<b>Social Care (Self-directed Support) (Scotland) Act 2013()</b>	
<b>Section 3</b> <b>(Support for adult carers.)</b>	<b>Only in relation to assessments carried out under Integration Functions.</b>
Section 5 (Choice of options: adults.)	

<i>Column A</i> <i>Enactment conferring function</i>	<i>Column B</i> <i>Limitation</i>
Section 6 (Choice of options under section 5: assistance.)	
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.)	
<b><u>Carers (Scotland) Act 2016</u></b>	<u>All only insofar as they relate to adults.</u>
<u>Section 6 (Duty to prepare adult carer support plan)</u>	
<u>Section 21 (Duty to set local eligibility criteria)</u>	
<u>Section 24 (Duty to provide support)</u>	
<u>Section 25 (Provision of support to carers: breaks from caring)</u>	
<u>Section 31 (Duty to prepare local carer strategy)</u>	
<u>Section 34 (Information and advice services for carers)</u>	
<u>Section 35 (Short break services statements)</u>	

## PART 2

Functions, conferred by virtue of enactments, prescribed for the purposes of section 1(7) of the Public Bodies (Joint Working) (Scotland) Act 2014

<i>Column A</i> <i>Enactment conferring function</i>	<i>Column B</i> <i>Limitation</i>
<b>The Community Care and Health (Scotland) Act 2002</b>	
Section 4() The functions conferred by Regulation 2 of the Community Care (Additional Payments) (Scotland) Regulations 2002()	

## **Part 2**

### **Services currently provided by the Local Authority which are to be integrated**

Scottish Ministers have set out in guidance that the services set out below must be integrated. Further services can be added where they relate to delegated functions;

- 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 adaptations
- Day services
- Local area co-ordination
- Respite provision
- Occupational therapy services
- Re-ablement services, equipment and telecare