

2014 No. 285

PUBLIC HEALTH

SOCIAL CARE

**The Public Bodies (Joint Working) (Integration Joint Boards)
(Scotland) Order 2014**

Made - - - - - *28th October 2014*

Laid before the Scottish Parliament *30th October 2014*

Coming into force - - - *28th November 2014*

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 12 and 69(1) of the Public Bodies (Joint Working) (Scotland) Act 2014^(a) and all other powers enabling them to do so.

In accordance with section 12(3) of that Act, they have consulted with each local authority and Health Board. There are no integration joint boards established at the date of making this Order.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Public Bodies (Joint Working) (Integration Joint Boards) (Scotland) Order 2014 and comes into force on 28th November 2014.

(2) In this Order—

“the Act” means the Public Bodies (Joint Working) (Scotland) Act 2014;

“appropriate person” means a member of the Health Board, but does not include any person who is both a member of the Health Board and a councillor;

“chairperson” means the chairperson of the integration joint board for the time being appointed in accordance with arrangements made under articles 4 and 6;

“general medical services contract” means a contract under section 17J of the National Health Service (Scotland) Act 1978^(b);

“service users” has the meaning provided by section 4(2) of the Act;

“temporary vacancy” means a vacancy in respect of which a constituent authority is required to nominate a person but is unable for the time being to do so;

“third sector bodies” includes non-commercial providers of health or social care, representative groups, interest groups, social enterprises and community organisations;

“voting member” means a member appointed by virtue of article 3(1)(a) or (b) or article 5(2)(a) or (b).

(a) 2014 asp 9.

(b) 1978 c.29. Section 17J was inserted by section 4 of the Primary Medical Services (Scotland) Act 2004 (asp 1).

Application of this Order

2.—(1) Articles 3, 4 and 13 of this Order apply where an integration scheme is prepared under sections 1(2) or 2(3) of the Act.

(2) Articles 5, 6 and 14 of this Order apply where an integration scheme is prepared under section 2(4) of the Act.

(3) Except as provided for by paragraphs (1) or (2), the provisions of this Order apply to all integration joint boards.

Membership where integration scheme prepared by one local authority

3.—(1) When an integration joint board is established it must include the following members—

- (a) the number of councillors determined in accordance with paragraph (3) nominated by the local authority;
- (b) the number of persons determined in accordance with paragraph (3) nominated by the Health Board;
- (c) the chief social work officer of the local authority;
- (d) the chief officer of the integration joint board;
- (e) the proper officer of the integration joint board appointed under section 95 of the Local Government (Scotland) Act 1973(a);
- (f) a registered medical practitioner whose name is included in the list of primary medical services performers prepared by the Health Board in accordance with Regulations made under section 17P of the National Health Service (Scotland) Act 1978(b);
- (g) a registered nurse who is employed by the Health Board or by a person or body with which the Health Board has entered into a general medical services contract; and
- (h) a registered medical practitioner employed by the Health Board and not providing primary medical services.

(2) The members appointed under paragraphs (1)(f) to (h) must be determined by the Health Board.

(3) The number of persons to be nominated under paragraph (1)(a) and (b) is—

- (a) three;
- (b) such number as the constituent authorities agree; or
- (c) such number as may be specified by the local authority which does not exceed 10 per cent of the number of members of the local authority, whichever is the greatest.

(4) Except where paragraph (5) applies, the members nominated by the Health Board under paragraph 3(1)(b) must be non-executive directors of that Health Board.

(5) If the Health Board is unable to nominate the number of non-executive directors determined in accordance with paragraph (3)—

- (a) it must nominate at least 2 non-executive directors; and
- (b) the remainder of the persons nominated must be appropriate persons.

(6) Once an integration joint board is established it must appoint, in addition, at least one member in respect of each of the groups described in paragraph (7).

(a) 1973 c.65. By virtue of section 106 of that Act, as amended by section 13 of the Public Bodies (Joint Working) (Scotland) Act 2014 (asp 9), the provisions of part 7 of the Local Government (Scotland) Act 1973, with the exception of sections 101A and 105A, apply to an integration joint board.

(b) Section 17P was inserted by section 5(2) of the Primary Medical Services (Scotland) Act 2004 (asp 1). Regulation 4(1) of S.S.I. 2004/114 provides for the preparation of a primary medical services performers list by each Health Board.

- (7) The groups referred to in paragraph (6) are—
- (a) staff of the constituent authorities engaged in the provision of services provided under integration functions;
 - (b) third sector bodies carrying out activities related to health or social care in the area of the local authority;
 - (c) service users residing in the area of the local authority; and
 - (d) persons providing unpaid care in the area of the local authority.
- (8) Subject to paragraph (9), the integration joint board may appoint such additional members as it sees fit.
- (9) A member appointed under paragraph (8) may not be a councillor or a non-executive director of the Health Board.

Appointment of chairperson and vice-chairperson where integration scheme prepared by one local authority

- 4.—(1) A chairperson is to be appointed by a constituent authority for a term of office not to exceed three years (an “appointing period”).
- (2) The constituent authorities must alternate which of them is to appoint the chairperson in respect of each successive appointing period.
- (3) The constituent authority which is not entitled to appoint the chairperson in respect of an appointing period must appoint the vice-chairperson of the integration joint board in respect of that period.
- (4) A constituent authority may change the person appointed by that authority as chairperson or vice-chairperson during an appointing period.
- (5) The local authority may only appoint as chairperson or vice-chairperson a member of the integration joint board nominated by it in accordance with article 3(1)(a).
- (6) The Health Board may only appoint as chairperson or vice-chairperson a member of the integration joint board nominated by it in accordance with article 3(1)(b) and who is a non-executive director of the Health Board.

Membership where integration scheme prepared by two or more local authorities.

- 5.—(1) Subject to paragraphs (2)-(8), where an integration scheme is prepared under section 2(4) of the Act, the membership of the integration joint board must be agreed between the Health Board and the local authorities.
- (2) When an integration joint board is established it must include the following members—
- (a) if the scheme is prepared by two local authorities, at least two councillors nominated by each local authority or, if the scheme is prepared by more than two local authorities, at least one councillor nominated by each local authority;
 - (b) the number of persons nominated by the Health Board which is equal to the number of councillors to be nominated under sub-paragraph (a);
 - (c) the chief social work officer of one of the local authorities;
 - (d) the chief officer of the integration joint board;
 - (e) the proper officer of the integration joint board appointed under section 95 of the Local Government (Scotland) Act 1973;
 - (f) a registered medical practitioner whose name is included in the list of primary medical services performers prepared by the Health Board in accordance with Regulations made under section 17P of the National Health Service (Scotland) Act 1978;
 - (g) a registered nurse who is employed by the Health Board or by a person or body with which the Health Board has entered into a general medical services contract; and

- (h) a registered medical practitioner employed by the Health Board and not providing primary medical services.
- (3) The members appointed under paragraphs (2)(f) to (h) must be determined by the Health Board.
- (4) Except where paragraph (5) applies, the persons nominated by the Health Board under paragraph 5(2)(b) must be non-executive directors of that Health Board.
- (5) If the Health Board is unable to nominate the number of non-executive directors required under paragraph (2)(b)—
 - (a) it must nominate at least two non-executive directors; and
 - (b) the remainder of the persons nominated must be appropriate persons.
- (6) Once an integration joint board is established it must, in addition, appoint at least one member in respect of each of the groups described in paragraph (7).
- (7) The groups referred to in paragraph (6) are—
 - (a) staff of the constituent authorities engaged in the provision of services provided under integration functions;
 - (b) third sector bodies carrying out activities related to health and social care for the area of the local authorities;
 - (c) service users residing in the area of the local authorities; and
 - (d) persons providing unpaid care in the area of the local authorities.
- (8) Subject to paragraph (9), the integration joint board may appoint such additional members as it sees fit.
- (9) A member appointed under paragraph (8) may not be a councillor or a non-executive director of the Health Board.

Appointment of chairperson and vice-chairperson where integration scheme prepared by two or more local authorities

- 6. (1) A chairperson is to be appointed by a constituent authority for a term of office, not to exceed three years (an “appointing period”).
- (2) The constituent authorities must agree whether the chairperson will be appointed by the Health Board or by one of the local authorities in the first appointing period.
- (3) In the second appointing period—
 - (a) if the chairperson appointed under paragraph (2) was appointed by the Health Board, the chairperson must be appointed by one of the local authorities;
 - (b) If the chairperson appointed under paragraph (2) was appointed by one of the local authorities, the chairperson must be appointed by the Health Board.
- (4) The appointment of the chairperson is to alternate between the Health Board and a local authority, so that in each second alternating appointing period the chairperson is appointed by the Health Board.
- (5) The Health Board, or as the case may be, a local authority, which is not entitled to appoint the chairperson in respect of an appointing period must appoint the vice-chairperson of the integration joint board in respect of that period.
- (6) A constituent authority may change the person appointed by that authority as chairperson or vice-chairperson during an appointing period.
- (7) A local authority may only appoint as chairperson or vice-chairperson a member of the integration joint board nominated by it in accordance with article 5(2)(a).
- (8) The Health Board may only appoint as chairperson or vice-chairperson a member of the integration joint board nominated by it in accordance with article 5(2)(b) who is a non-executive director of the Health Board.

Term of office of members

7.—(1) Subject to paragraph (2), the term of office of a member of the integration joint board member is to be determined by the constituent authorities, but is not to exceed three years.

(2) A member appointed under article 3(1)(c) to (e) or, as the case may be, article 5(2)(c) to (e) is to remain a member for as long as they hold the office in respect of which they are appointed.

(3) At the end of a term of office determined under paragraph (1), a member may be reappointed for a further term of office.

(4) This article is subject to articles 9 (resignation of members) and 10 (removal of members).

Disqualification

8.—(1) A person to whom paragraph (2) applies is disqualified from being a member of an integration joint board.

(2) The persons to whom this paragraph applies are—

- (a) a person who has within the period of five years immediately preceding the proposed date of appointment been convicted of any criminal offence in respect of which the person has have received a sentence of imprisonment (whether suspended or not) for a period of not less than three months (without the option of a fine);
- (b) a person who has been removed or dismissed for disciplinary reasons from any paid employment or office with a Health Board or local authority;
- (c) a person who is insolvent;
- (d) a person who has been removed from a register maintained by a regulatory body, other than where the removal was voluntary; and
- (e) a person who has been subject to a sanction under section 19(1)(b) to (e) of the Ethical Standards in Public Life etc. (Scotland) Act 2000(a).

(3) For the purposes of paragraph (2)(a) the date of conviction shall be deemed to be the date on which the days of appeal expire without any appeal having been lodged, or if an appeal has been made, the date on which the appeal is finally disposed of or treated as having been abandoned.

(4) In this article—

- (a) a person is “insolvent” if—
 - (i) the person’s estate is sequestrated;
 - (ii) the person is adjudged bankrupt;
 - (iii) the person enters a trust deed for creditors;
 - (iv) an individual voluntary arrangement proposed by the person is approved under Part 8 of the Insolvency Act 1986(b);
 - (v) the person enters into a debt payment programme under Part 1 of the Debt Arrangement and Attachment (Scotland) Act 2002(c) as the debtor; or
 - (vi) a bankruptcy restrictions order has been made under section 56A(1) of the Bankruptcy (Scotland) Act 1985(d) or section 281A of, and Schedule 4A to, the Insolvency Act 1986(e) in respect of the person; or

(a) 2000 asp 7.

(b) 1986 c.45, as relevantly amended by the Insolvency Act 2000 (c.39), Schedule 3 and by S.I. 2010/18.

(c) 2002 asp 17, as relevantly amended by the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), sections 211 and 212; the Bankruptcy and Debt Advice (Scotland) Act 2014 (asp 11), section 53 and by S.S.I. 2011/141.

(d) 1985 c.66. Section 56A was inserted by the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), section 2(1).

(e) Section 281A and Schedule 4A were inserted by the Enterprise Act 2002 (c.40), section 257 and Schedule 20.

- (vii) the person has given a bankruptcy restrictions undertaking under section 56G(1) of the Bankruptcy (Scotland) Act 1985(a) or section 281A of, and Schedule 4A to, the Insolvency Act 1986;
- (b) the term “regulatory body” means any of the following—
 - (i) the Registrar of Chiropractors;
 - (ii) the registrar of the General Dental Council;
 - (iii) the registrar of the General Medical Council;
 - (iv) the registrar of the General Optical Council;
 - (v) the Registrar of the General Pharmaceutical Council;
 - (vi) the Registrar of the Health and Care Professions Council;
 - (vii) the Registrar of the Nursing and Midwifery Council;
 - (viii) the Registrar of Osteopaths; or
 - (ix) the Scottish Social Services Council;
- (c) a “voluntary” removal from a register maintained by a regulatory body includes removal by reason of retirement or otherwise ceasing to practice as a regulated professional.

Resignation of members

9.—(1) Subject to paragraph (3), a person may resign their membership of the integration joint board at any time by giving notice in writing to the integration joint board.

(2) If a voting member gives notice under paragraph (1) the integration joint board must inform the constituent authority which nominated that member.

(3) Paragraph (1) does not apply to a member appointed under articles 3(1)(c) to (e) or 5(2)(c) to (e).

Removal of Members

10.—(1) If a member has not attended three consecutive meetings of the integration joint board, and their absence was not due to illness or other reasonable cause, the integration joint board may remove the member from office by providing the member with one month’s notice in writing.

(2) If a member acts in a way which brings the integration joint board into disrepute or in a way which is inconsistent with the proper performance of the functions of the board, the integration joint board may remove the member from office with effect from such date as the integration joint board may specify in writing.

(3) If a member is disqualified under article 8 during a term of office they are to be removed from office immediately.

(4) If a member who is a councillor appointed on the nomination of the local authority ceases, for any reason, to be a councillor during a term of office they are to be removed from office with effect from the day that they cease to be a councillor.

(5) Subject to paragraphs (1) to (4), a constituent authority may remove a member which it nominated by providing one month’s notice in writing to the member and the integration joint board.

Voting

11. Each question put to a meeting of an integration joint board is to be decided by a majority of the votes of the voting members attending and entitled to vote on the question.

(a) Section 56G was inserted by the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), section 2(1).

Proxies

12.—(1) If a voting member is unable to attend a meeting of the integration joint board the constituent authority which nominated the member, is to use its best endeavours to arrange for a suitably experienced proxy, who is either a councillor or, as the case may be, a member of the Health Board, to attend the meeting in place of the voting member.

(2) If a member who is not a voting member is unable to attend a meeting of the integration joint board that member may arrange for a suitably experienced proxy to attend the meeting.

(3) A proxy attending a meeting of the integration joint board by virtue of paragraph (1) may vote on decisions put to that meeting.

(4) If the chairperson or vice chairperson is unable to attend a meeting of the integration joint board, any proxy attending the meeting may not preside over that meeting.

Temporary vacancies in voting membership where integration scheme prepared by one local authority

13.—(1) Where there is a temporary vacancy in the voting membership of the integration joint board, the vote which would be exercisable by a member appointed to that vacancy may be exercised jointly by the other members nominated by the relevant constituent authority.

(2) Paragraph (3) applies where, by virtue of article 4, the chairperson is to be appointed by a constituent authority but where—

(a) due to two or more temporary vacancies, the number of members nominated by one that constituent authority is one; or

(b) a constituent authority has been unable to nominate any members.

(3) Where this paragraph applies the chairperson of the integration joint must be temporarily appointed by the other constituent authority.

(4) Where a temporary vacancy, or the circumstances in which paragraph (3) applies, persist for longer than six months the chairperson of the integration joint board must notify the Scottish Ministers in writing of the reasons why the vacancy remains unfilled.

(5) In this article, “relevant constituent authority” in relation to a temporary vacancy means the constituent authority which is entitled to nominate a member to fill the temporary vacancy.

Temporary vacancies in voting membership where integration scheme prepared by two or more local authorities.

14. The arrangements in relation to temporary vacancies in membership are to be such as are agreed by the constituent authorities.

Effect of vacancy in membership

15. A vacancy in the membership of an integration joint board will not invalidate anything done or any decision made by that integration joint board.

Expenses

16. An integration joint board may pay to its members any reasonable travel and other expenses properly incurred by them in connection with their membership of the integration joint board.

Committees

17.—(1) An integration joint board may establish committees of its members for the purpose of carrying out such of its functions as the board may determine.

(2) When an integration joint board establishes a committee under paragraph (1), it must determine who will act as chairperson of that committee.

(3) A committee established under paragraph (1) must include voting members, and must include an equal number of the voting members appointed by the Health Board on the one hand and the local authority or, as the case may be, local authorities, on the other hand.

(4) Any decision relating to the carrying out of functions under the Act or to integration functions taken by a committee established under paragraph (1) must be agreed by a majority of the votes of the voting members who are members of the committee.

Standing orders

18.—(1) An integration joint board must make, and may amend, standing orders for the regulation of its procedure and business, and all meetings of the integration joint board or of a committee of the integration joint board must be conducted in accordance with those standing orders.

(2) Standing orders prepared under paragraph (1) must include—

- (a) a dispute resolution mechanism to be used in the case that there is an equality of votes cast in relation to any decision put to a meeting of the integration joint board (but this dispute resolution mechanism may not consist of a particular member or group of members exercising a casting vote on the decision);
- (b) provision to allow for members to attend a meeting of the integration joint board or a committee of the integration joint board either by being present together with other members in a specified place, or in any other way which enables members to participate despite not being present with other members in a specified place; and
- (c) the matters set out in the Schedule.

General powers of the integration joint board

19. An integration joint board may enter into a contract with any other person in relation to the provision to the integration joint board of goods and services for the purpose of carrying out functions conferred on it by the Act.

ALEX NEIL

A member of the Scottish Government

St Andrew's House,
Edinburgh
28th October 2014

SCHEDULE

Article 18

MATTERS TO BE INCLUDED IN STANDING ORDERS

Calling meetings

1.—(1) The first meeting of the integration joint board is to be convened at a time and place determined by the chairperson.

(2) The chairperson may call a meeting of the integration joint board at such other times as he or she sees fit.

(3) A request for a meeting of the integration joint board to be called may be made in the form of a requisition specifying the business proposed to be transacted at the meeting and signed by at least two thirds of the voting members, presented to the chairperson.

(4) If a request is made under paragraph (3) and the chairperson refuses to call a meeting, or does not call a meeting within 7 days after the making of the request, the members who signed the requisition may call a meeting.

(5) The business which may be transacted at a meeting called under sub-paragraph (4) is limited to the business specified in the requisition.

Notice of meetings

2.—(1) Before each meeting of the integration joint board, or a committee of the integration joint board, a notice of the meeting specifying the time, place and business to be transacted at it signed by the chairperson, or a member authorised by the chairperson to sign on the chairperson's behalf, is to be sent electronically to every member or sent to the usual place of residence of every member so as to be available to them at least five clear days before the meeting.

(2) A failure to serve notice of a meeting on a member in accordance with sub-paragraph (1) shall not affect the validity of anything done at that meeting.

(3) In the case of a meeting of the integration joint board called by members the notice is to be signed by the members who requisitioned the meeting in accordance with paragraph 1(3).

Quorum

3. No business is to be transacted at a meeting of the integration joint board unless at least one half of the voting members is present.

Conduct of meetings

4.—(1) At each meeting of the integration joint board, or a committee of the integration joint board, the chairperson, if attending the meeting, is to preside.

(2) If the chairperson is absent from a meeting of the integration joint board or a committee of the integration joint board, the vice-chairperson is to preside.

(3) If the chairperson and vice-chairperson are both absent from a meeting of the integration joint board or a committee of the integration joint board, a voting member chosen at the meeting by the other voting members attending the meeting is to preside.

(4) If it is necessary or expedient to do so a meeting of the integration joint board, or of a committee, may be adjourned to another date, time or place.

Conflict of interest

5.—(1) A member must disclose any direct or indirect pecuniary or other interest in relation to an item of business to be transacted at a meeting of the integration joint board, or a committee of the integration joint board, before taking part in any discussion on that item.

(2) Where an interest is disclosed under sub-paragraph (1), the other members present at the meeting in question must decide whether the member declaring the interest is to be prohibited from taking part in discussion of or voting on the item of business.

Records

6.—(1) A record must be kept of the names of the members attending every meeting of the integration joint board or of a committee of the integration joint board.

(2) Minutes of the proceedings of each meeting of the integration joint board or a committee, including any decision made at that meeting, are to be drawn up and submitted to the next ensuing meeting of the integration joint board or the committee for agreement after which they must be signed by the person presiding at that meeting.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order sets out provisions which will apply in relation to the membership, proceedings and operation of all integration joint boards established under section 9 of the Public Bodies (Joint Working) (Scotland) Act 2014.

Articles 3 and 4 apply when an integration joint board will operate only in a single local authority area.

Article 3 makes provision for the persons who must, and may, be included in the membership of an integration joint board. Paragraph (1) and (2) set out the persons who must be included, as a minimum, in all integration joint boards to which this article applies. This includes members to be nominated by the Health Board and local authority which prepared the integration joint board (the “constituent authorities”), holders of key posts within the constituent authorities or the integration joint board, and representatives of groups having an interest in the integration joint board. Paragraphs (3) to (7) set out arrangements for flexibility for an integration joint board to appoint additional members, or different members, to those provided for in paragraphs (1) and (2), in certain circumstances.

Article 4 provides for the chairperson and vice chairperson to be appointed from among the members nominated by each constituent authority. The constituent authorities will have responsibility for these appointments on an alternating basis, with the maximum term of appointment to be three years.

Articles 5 and 6 apply when an integration joint board will operate in two or more local authority areas.

Article 5 makes provision for the persons who must, as a minimum, be included in the membership of such an integration joint board, and provides that additional members may be appointed as agreed between the constituent authorities. Article 6 makes provision for appointment of the chairperson and vice-chairperson, including the provision in article 6(3) for the right to appoint the chairperson to alternate between the Health Board on the one hand, and the local authorities on the other hand.

Article 7 makes provision as to the term of office of members, and certain particular circumstances in which a different term of office may apply. Article 8 sets out categories of persons who are disqualified from being appointed as a member. Articles 9 and 10 provide for the resignation or removal of members.

Articles 11 provides for voting on questions put to the integration joint board. Article 12 provides for proxy members to attend meetings. Articles 13 to 15 make provision about vacancies in the membership of an integration joint board.

Article 16 sets out the expenses that may be paid to members.

Article 17 confers powers on integration joint boards to establish committees and delegate functions to those committees.

Article 18 imposes a requirement on each integration joint board to create its own standing orders and, together with the Schedule, sets out certain matters that must be included in the standing orders of every integration joint board.

Articles 19 provides for all integration joint boards to be able to enter into contracts for the purpose of carrying out their functions, for example to obtain administrative support, accounting or legal services.

£6.00

S2014102913 11/2014 19585

<http://www.legislation.gov.uk/id/ssi/2014/285>

ISBN 978-0-11-102475-1



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