

EAST RENFREWSHIRE COUNCIL

21 JANUARY 2015

Report by Deputy Chief Executive

EAST RENFREWSHIRE HEALTH AND SOCIAL CARE PARTNERSHIP

DELEGATION OF FUNCTIONS BY THE COUNCIL TO THE
INTEGRATION JOINT BOARD

PURPOSE OF REPORT

1. To seek approval for the delegation of functions relating to the provision of adult and children's social care services to the new East Renfrewshire Integration Joint Board.

RECOMMENDATION

2. That the Council agree:-
- (a) to delegate those functions listed in Appendix 1 accompanying the report to the East Renfrewshire Integration Joint Board.
 - (b) to note the services listed in Appendix 2 to be transferred for the purposes of the delivery of the functions listed in Appendix 1
 - (c) to establish a new Social Work Committee with terms of reference and membership as outlined in the report; and
 - (d) that the Council's Schemes of Administration and Delegated Functions be amended accordingly.

BACKGROUND

3. The Public Bodies (Joint Working)(Scotland) Act 2014 requires health boards and local authorities to integrate planning for, and delivery of, certain adult health and social care services. Regulations made under the Act set out those functions that must be delegated by both the local authority and the health board. However it is also open to them to choose to integrate planning and delivery of criminal justice, children and families health and social care, and housing services, beyond the minimum prescribed by Scottish Ministers.

4. The Act requires health boards and local authorities to prepare jointly an integration scheme setting out how the joint working arrangements are to be achieved. There are a number of ways in which they can do this; the health board and the local authority can either delegate their functions to the other party, or both can delegate their functions to a third party known as an Integration Joint Board. This is the approach that has already been agreed by both the Council and the Health Board. The draft scheme, once approved by both parties, must be submitted to the Scottish Ministers for final approval. At that time, Ministers will make an Order establishing the new joint board, which will be a legal entity in its own right.

REPORT

5. East Renfrewshire Council and NHS Greater Glasgow and Clyde have operated a fully integrated Community Health and Care Partnership since 2006. That body has been responsible not only for the delivery of adult health and social care services, but also children and families services and criminal justice. The draft Integration Scheme proposes the delegation of all of the Council and Health Board functions relative to adults, criminal justice and children and families services that can be delegated under the Act to the IJB.

6. The Council's formal agreement to the delegation of these functions is required. The full list of functions to be delegated, including those optional functions it has been agreed to delegate to the Integration Joint Board is set out in Appendix 1 to the report. Appendix 2 sets out those services to be transferred for the purposes of the delivery of the functions set out in Appendix 1. It should be noted that only those housing services prescribed as mandatory in the Act are to be delegated.

Schemes of Administration and Delegated Functions

7. The Council's Scheme of Administration reflects the current arrangements for the CHCP Committee to be responsible for the oversight of health and social care services provided by the Council, whilst the Scheme of Delegated Functions sets out those powers the Council has agreed to delegate to the CHCP Director and other appropriate designated officers to exercise on its behalf.

8. As a result of the delegation of functions to the Integration Joint Board, there are a number of changes that will need to be made to the Scheme of Administration. These relate to the removal of a number of plans from the list of plans that are at the moment approved by the Council, either with or without a recommendation by the Cabinet, and the removal from the Scheme of reference to the CHCP Committee.

9. With regards to the Scheme of Delegated Functions, as these functions are being transferred to the IJB it will be for the IJB itself to determine which of the functions are to be exercised by officers, and the Scheme will need to be amended to remove the delegations to officers by the Council. This will include delegations to the Chief Social Work Officer. Whilst it is a statutory requirement for the Council to have a Chief Social Work Officer, it is still open to the Council at present to determine which powers are to be exercised on behalf of the Council by the post holder. As the functions currently exercised by the CSWO are being delegated to the IJB, as with the other posts, it will be for the IJB to determine which powers are to be delegated to the CSWO.

10. The Scheme also refers to the discharge of some of the Council's functions by other parties. A similar amendment to the Scheme will need to be made to the effect that the Council has agreed that the functions as set out in Appendix 1 be discharged on its behalf by the Health and Social Care Partnership.

Complaints

11. Local authorities are required to have in place procedures whereby a person, or anyone acting on their behalf, may make representations (including complaints) in relation to the authority's discharge of, or failure to discharge, any of its functions under the Social Work (Scotland) Act 1968. The details of the requirements are set out in Circular SWSG5/1996. As part of these requirements councils were required to establish Social Work Complaints Review Committees. The purpose of these committees, which are made up of

independent persons, is to consider complaints which have not been resolved to the satisfaction of the complainant, and where appropriate to make recommendations to the relevant council committee with responsibility for social work matters. In East Renfrewshire, since the establishment of the Community Health and Care Partnership, the Council's 5-member CHCP Committee has been the body responsible for considering reports and recommendations from the Social Work Complaints Review Committee, and instructing action where appropriate. This Committee meets as required which has been infrequently.

12. It should be noted that the Scottish Government is undertaking a review of social work complaints procedures which may see amendments to the way in which social work complaints are dealt with in future. It is proposed, as an interim measure, that a Social Work Committee be established with limited terms of reference to consider and respond to recommendations made by the Social Work Complaints Review Committee. The draft Integration Scheme for the IJB proposes that the Council is represented on the IJB by 4 councillors, and it is proposed that membership of the new Social Work Committee would comprise these 4 councillors. It is anticipated that the Convener for Social Work and Health will be one of the 4 councillors appointed to the IJB and should be appointed as Chair of the Social Work Committee.

Timescale

13. Existing arrangements will continue until such times as the Order creating the new IJB is made and takes effect. As such, the proposals for changes to the Schemes of Delegated Functions and Administration as well as the proposals to establish a new Social Work Committee to replace the 5-member CHCP Committee would not take effect until that time.

CONSULTATION

14. The Chief Legal Officer and CHCP Director have been consulted in the preparation of this report.

FINANCE AND EFFICIENCY

15. There are no financial implications for the Council as a consequence of the changes proposed.

IMPLICATIONS OF THE PROPOSALS

16. There are no implications in terms of staffing, property, legal, IT, equalities or sustainability.

CONCLUSIONS

17. The need for the Council to delegate functions to the new IJB and the associated changes to the Council's own governance arrangements has been brought about by legislative changes associated with the delivery of health and social care services.

RECOMMENDATION/...

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18. That the Council agree:-

- (a) to delegate those functions listed in Appendix 1 accompanying the report to the East Renfrewshire Integration Joint Board.
- (b) to note the services listed in Appendix 2 to be transferred for the purposes of the delivery of the functions listed in Appendix 1
- (c) to establish a new Social Work Committee with terms of reference and membership as outlined in the report; and
- (d) that the Council's Schemes of Administration and Delegated Functions be amended accordingly.

Local Government (Access to Information) Act 1985

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Background papers None

Functions delegated by the Local Authority to the Integration Joint Board

Set out below is the list of functions to be delegated by the local authority to the Integration Joint Board. Part 1 of the list reflects those functions which must be delegated in terms of 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 . Part 2 of the list reflects those functions which the Council intends to delegate on this discretionary basis.

PART 1 – FUNCTIONS WHICH MUST BE DELEGATED

Column A Enactment conferring function	Column B Limitation
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.

Column A Enactment conferring function	Column B Limitation
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.
Section 12AA (Assessment of ability to provide care.)	
Section 12AB (Duty of local authority to provide information to carer.)	
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.)

Column A Enactment conferring function	Column B Limitation
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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.

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

Column A Enactment conferring function	Column B Limitation
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 4 (Accommodation more expensive than usually provided)	
Section 5 (Local authority arrangements for residential accommodation outwith Scotland.)	
Section 14 (Payments by local authorities towards expenditure by NHS bodies on prescribed functions.)	
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.

Column A
Enactment conferring function

Column B
Limitation

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.)

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 3

(Support for adult carers.)

Only in relation to assessments carried out under integration functions.

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.)

Column A Enactment conferring function	Column B Limitation
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.)	

PART 2 – ADDITIONAL FUNCTIONS TO BE DELEGATED ON A DISCRETIONARY BASIS

National Assistance Act 1948

Section 45
(Recovery in cases of misrepresentation or non-disclosure)

Matrimonial Proceedings (Children) Act 1958

Section 11
(Reports as to arrangements for future care and upbringing of children)

Social Work (Scotland) Act 1968

Section 5
(Powers of Secretary of State).

Section 6B
(Local authority inquiries into matters affecting children)

Section 27
(supervision and care of persons put on probation or released from prison etc.)

Section 27 ZA
(advice, guidance and assistance to persons arrested or on whom sentence deferred)

Section 78A
(Recovery of contributions).

Section 80
(Enforcement of duty to make contributions.)

Section 81
(Provisions as to decrees for aliment)

Column A
Enactment conferring function

Column B
Limitation

Section 83
(Variation of trusts)

Section 86
(Adjustments between authority providing accommodation etc., and authority of area of residence)

Children Act 1975

Section 34
(Access and maintenance)

Section 39
(Reports by local authorities and probation officers.)

Section 40
(Notice of application to be given to local authority)

Section 50
(Payments towards maintenance of children)

Health and Social Services and Social Security Adjudications Act 1983

Section 21
(Recovery of sums due to local authority where persons in residential accommodation have disposed of assets)

Section 22
(Arrears of contributions charged on interest in land in England and Wales)

Section 23
(Arrears of contributions secured over interest in land in Scotland)

Foster Children (Scotland) Act 1984

Section 3
(Local authorities to ensure well being of and to visit foster children)

Section 5
(Notification by persons maintaining or proposing to maintain foster children)

Column A
Enactment conferring function

Column B
Limitation

Section 6
(Notification by persons ceasing to maintain foster children)

Section 8
(Power to inspect premises)

Section 9
(Power to impose requirements as to the keeping of foster children)

Section 10
(Power to prohibit the keeping of foster children)

Children (Scotland) Act 1995

Section 17
(Duty of local authority to child looked after by them)

Sections 19
(Local authority plans for services for children)

Section 20
(Publication of information about services for children)

Section 21
(Co-operation between authorities)

Section 22
(Promotion of welfare of children in need)

Section 23
(Children affected by disability)

Section 24
(Assessment of ability of carers to provide care for disabled children)

Section 24A
(Duty of local authority to provide information to carer of disabled child)

Section 25
(Provision of accommodation for children etc)

Section 26
(Manner of provision of accommodation to children looked after by local authority)

Column A
Enactment conferring function

Column B
Limitation

Section 27
(Day care for pre-school and other children)

Section 29
(After-care)

Section 30
(Financial assistance towards expenses of education or training)

Section 31
(Review of case of child looked after by local authority)

Section 32
(Removal of child from residential establishment)

Section 36
(Welfare of certain children in hospitals and nursing homes etc)

Section 38
(Short-term refuges for children at risk of harm)

Section 76
(Exclusion orders)

Criminal Procedure (Scotland) Act 1995

Section 51
(Remand and committal of children and young persons).

Section 203
(Reports)

Section 234B
(Drug treatment and testing order).

Section 245A
(Restriction of liberty orders).

Adults with Incapacity (Scotland) Act 2000

Section 40
(Supervisory bodies)

Column A
Enactment conferring function

Column B
Limitation

**Community Care and Health (Scotland) Act
2002**

Section 6
(Deferred payment of accommodation costs)

**Management of Offenders etc (Scotland) Act
2005**

Section 10
(Arrangements for assessing and managing
risks posed by certain offenders)

Section 11
(Review of arrangements)

Adoption and Children (Scotland) Act 2007

Section 1
(Duty of local authority to provide adoption
service)

Section 4
(Local authority plans)

Section 5
(Guidance)

Section 6
(Assistance in carrying out functions under
sections 1 and 4)

Section 9
(Assessment of needs for adoption support
services)

Section 10
(Provision of services)

Section 11
(Urgent provision)

Section 12
(Power to provide payment to person entitled to
adoption support service)

Section 19
(Notice under section 18: local authority's
duties)

Column A
Enactment conferring function

Column B
Limitation

Section 26
Looked after children: adoption not proceeding

Section 45
Adoption support plans

Section 47
Family member's right to require review of plan

Section 48
Other cases where authority under duty to review plan

Section 49
Reassessment of needs for adoption support services

Section 51
Guidance

Section 71
Adoption allowance schemes

Section 80
Permanence orders

Section 90
Precedence of court orders and supervision requirements over order

Section 99
Duty of local authority to apply for variation or revocation

Section 101
Local authority to give notice of certain matters

Section 105
Notification of proposed application for order

**Adult Support and Protection (Scotland) Act
2007**

Section 7
(Visits)

Section 8
(Interviews)

Section 9
(Medical examinations)

Column A
Enactment conferring function

Column B
Limitation

Section 10
(Examination of records etc)

Section 16
(Right to move adult at risk)

Children's Hearings (Scotland) Act 2011

Section 35
(Child assessment orders)

Section 37
(Child protection orders)

Section 42
(Parental responsibilities and rights directions)

Section 44
(Obligations of local authority)

Section 48
(Application for variation or termination)

Section 49
(Notice of application for variation or termination)

Section 60
(Local authority's duty to provide information to Principal Reporter)

Section 131
(Duty of implementation authority to require review)

Section 144
(Implementation of compulsory supervision order: general duties of implementation authority)

Section 145
(Duty where order requires child to reside in certain place)

Section 153
(Secure accommodation: regulations)

Section 166
(Review of requirement imposed on local authority)

Column A
Enactment conferring function

Column B
Limitation

Section 167
(Appeals to sheriff principal: section 166)

Section 180
(Sharing of information: panel members)

Section 183
(Mutual assistance)

Section 184
(Enforcement of obligations on health board
under section 183)

**Social Care (Self- Directed Support)(Scotland)
Act 2013**

Section 8
(Choice of options: children and family
members)

Section 10
(Provision of information: children under 16)

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APPENDIX 2

Services currently provided by East Renfrewshire Council which are to be integrated

- 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 for adults and young people
- Occupational therapy services
- Re-ablement services, equipment and telecare
- Residential and non-residential care charging
- Criminal Justice Social Work Services, including Youth Justice
- Children and Families Social Work Services:-
 - Adoption and Fostering/Corporate Parenting Team;
 - Assessment and Planning Service;
 - Child Protection;
 - Children with Disabilities
 - Intensive Service for children and families
 - Looked After and Accommodated Children;
 - Throughcare Services
 - Transition Team
 - Young Peoples Intensive Service