

Key points:

Together (Scottish Alliance for Children's Rights) is an alliance of children's charities that works to improve the awareness, understanding and implementation of the UN Convention on the Rights of the Child (UNCRC) in Scotland. We have over 260 members ranging from large international and national non-governmental organisations (NGOs) through to small volunteer-led after school clubs. Our activities include collating an annual *State of Children's Rights* report to set out the progress made to implement the UNCRC in Scotland. We also provide a focal point through which Scottish NGOs report to the UN Committee on the Rights of the Child. The views expressed in this submission are based on the general principles of the UN Convention on the Rights of Child (UNCRC) and do not necessarily reflect the specific views of each member organisation.

Together welcomes the Public Bodies (Joint Working) (Scotland) Act 2014 and the policy intention to support improvements in the quality and consistency of health and social care services. The integration of adult health and social care will impact on the rights of various groups of children and young people, regardless of whether or not the option is taken to include children's services as part of the integration.¹ It is essential that this is recognised throughout the regulations and guidance accompanying the Act.

The Scottish Government must take into account the rights of children as enshrined in the UNCRC and ensure that the General Principles of the Convention are respected throughout the development of regulations and guidance for the Act. Ensuring that the provisions within the UNCRC are respected, protected and fulfilled in legislation, policy development and delivery at all levels of government demands a continuous process of impact assessment and evaluation.² As such, it is essential that the Scottish Government undertake a full Child Rights Impact Assessment (CRIA) on the regulations and guidance to determine how the proposals will impact on the rights of children and young people, both as service users and as a family member of service users. This would be in line with the Scottish Government's commitments to children's rights as evident in Part 1 of the Children and Young People (Scotland) Act 2014.

Together welcomes the rationale to integrate health and social care services to improve the quality and consistency of services for patients, carers, service users and their families.

- It is crucial that the Scottish Government is mindful that carers and families include children and young people, and that regulations must consider and fully embed children's rights throughout.

Together welcomes the rationale to provide seamless, joined up, high quality health and social care services in order to care for people in their homes, or a homely setting, where it is safe to do.

- In order to fulfil this rationale, the Scottish Government needs to embed consideration of children and young people and their rights; particularly as they transition from children to adult services.

¹ Welch, V, McCormack, M, Stephen, J & Lerpiniere, J (2014) *Integrating Health and Social Care in Scotland: Potential impact on children's service, Report One: Review of the Literature*, CELCIS, Children in Scotland & Social Work Scotland http://www.celcis.org/media/resources/publications/Integrating_Health_and_Social_Care_in_Scotland.pdf

² UN Committee on the Rights of the Child (2013). General Comment No. 5: General measures of implementation of the UNCRC (pg 11)

Together welcomes the rationale to ensure resources are used effectively and efficiently to deliver services that meet the needs of the increasing number of people with longer term complex needs, many of whom are older.

- Whilst the focus on older people with longer term and complex needs is important, it is essential that resources are used in a way that also fully recognises the need to meet children and young people's rights and needs.

The Scottish Government must consider how the duties included in the Children and Young People (Scotland) Act 2014 fit with the Public Bodies (Joint Working) (Scotland) Act 2014. Particular attention needs to be given to the reporting duties under Parts 1 and 3 of the Children and Young People (Scotland) Act 2014 and well-being / SHANARRI indicators.

**PROPOSALS FOR PRESCRIBED INFORMATION TO BE INCLUDED
IN THE INTEGRATION SCHEME RELATING TO THE PUBLIC
BODIES (JOINT WORKING) (SCOTLAND) ACT 2014**

RESPONDENT INFORMATION FORM

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1. Name/Organisation

Organisation Name

Together (Scottish Alliance for Children's Rights)

Title Mr Ms Mrs Miss Dr **Please tick as appropriate**

Surname

Harris

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Princes House

5 Shandwick Place

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Email juliet@togetherscotland.org.uk

3. Permissions - I am responding as...

Individual / Group/Organisation

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Please tick as appropriate

Yes

No

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NGO (children's sector)

PROPOSALS FOR PRESCRIBED INFORMATION TO BE INCLUDED IN THE INTEGRATION SCHEME 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 Integration Scheme?

Yes

No

2. If no, please explain why:

3. Are there any additional matters that should be included within the regulations?

Yes

No

4. If yes, please suggest:

The regulations need to be clear that services for adults, and particularly those provided to parents, carers and families, will impact on children and young people. The impact of integrating adult health and social care services on children and young people must be predicted, monitored, and if necessary, avoided or mitigated. In order for the Scottish Government to consider the full impact on children and young people and their rights, Together is clear that a Child Rights Impact Assessment (CRIA) must be carried out on the proposals within the consultation document (please refer to Additional Notes).

For example, more consideration needs to be given to children's rights with regard to stakeholder and public engagement: the draft regulations primarily focus on older adults. Whilst it is important that this group are listened to and included in decisions, younger adults and children and young people must also have their right to be heard and included. The regulations must indicate how children and young people will be engaged in the development and operation of the Scheme, and reflect the requirements of Article 12 of the UNCRC and General Comment No. 12 to the UNCRC on the right of the child to be heard.³ In addition, the Scheme must include child-friendly complaints procedures and data sharing (taking account of information sharing provisions of National Guidance for Child Protection in Scotland 2014).

³ UN General Assembly (1989). UN Convention on the Rights of the Child (Article 12)

The option to integrate children's services into adult health and social care is included within the Integration Scheme. Early indications show that it is likely that this option is going to be widely taken up by Local Authorities. Therefore, it is crucial that consideration is given as to how the provisions included in the Children and Young People (Scotland) Act 2014 are to be integrated and taken account of throughout the regulations. In particular, Part 3 of the Act focuses on Children's Services Planning and it is currently unclear in the proposed Integration Scheme how these provisions should be taken forward if the option is taken to integrate children's and adult services.

Consideration must also be given to Part 1 of the Children and Young People (Scotland) Act 2014 within the Integration Scheme. Reviewing the Integration Scheme using a children's rights approach would support public bodies to further children's rights and help progress the Scottish Government's ambition to '*make rights real*' for children and young people.

Regardless of whether or not the option to integrate children's services into adult health and social care is taken up, the effects of the Integration Scheme and corresponding regulations will impact on the interaction between children and adult health and social care services. It is essential that full consideration is given to ensure smooth transitions are made by children moving into adult services. Together's 2013 '*State of Children's Rights*' report highlighted that children's organisations feel that transitions must recognise the unique circumstances of a child and ensure that children can express their views and be involved in deciding the support and care that they need.⁴ Children with additional support needs, young carers and looked after children were recognised as particularly vulnerable groups when discussing the transition to young adult life. The report drew attention to the work of the Scottish Transitions Forum and Together recommends that the Scottish Government refer to '*Principles of Good Transitions #1*' (2013)⁵ and '*Principles of Good Transitions #2*' (2014)⁶ when reviewing the Integration Scheme regulations.

The Centre for Excellence for Looked after Children in Scotland (CELCIS) highlight in their response to this consultation that the throughcare and aftercare services for young people with care experiences up to 26 (who are assessed as having eligible needs) are provided by children's services. The proposals are unclear as to how these young adults will be affected and the potential impact upon these services. Together recommends that the Scottish Government give full consideration to this concern.

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

⁴ Together (2013) *State of Children's Rights in Scotland*

⁵ <http://scottishtransitions.org.uk/wp-content/uploads/Principles-of-good-transitions-planning-April-2013.pdf>

⁶ <http://scottishtransitions.org.uk/wp-content/uploads/principlesofgoodtransition-arc-scotland.pdf>

PROPOSALS FOR PRESCRIBED FUNCTIONS THAT MUST BE DELEGATED BY LOCAL AUTHORITIES RELATING TO THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

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NGO (Children's sector)

PROPOSALS FOR PRESCRIBED FUNCTIONS THAT MUST BE DELEGATED BY LOCAL AUTHORITIES RELATING TO THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

CONSULTATION QUESTIONS

1. Do you agree with the list of Local Authority functions included here which must be delegated?

Yes

No

2. If no, please explain why:

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

The regulations must make reference to other legislative frameworks and statutory instruments, and assess how they will fit together. For example, the Social Care (Self-directed Support) (Scotland) Act 2013 and the Children and Young People (Scotland) Act 2014.

The CELCIS review of evidence on the potential impact of integrating health and social care in Scotland on children's services highlighted that amongst the prescribed functions to be delegated by Local Authorities, health may be the dominant partner which could be at the detriment of social care services.⁷ CELCIS has also highlighted that there are services to families where adult and child service separation is not desirable. Together recommends that the Scottish Government fully consider both of these concerns and ensure that children and young people are at the centre of any decisions, reflecting Article 3 of the UNCRC.

⁷ Welch, V, McCormack, M, Stephen, J & Lerpiniere, J (2014) *Integrating Health and Social Care in Scotland: Potential impact on children's service, Report One: Review of the Literature*, CELCIS, Children in Scotland & Social Work Scotland http://www.celcis.org/media/resources/publications/Integrating_Health_and_Social_Care_in_Scotland.pdf

**PROPOSALS FOR REGULATIONS PRESCRIBING FUNCTIONS
THAT MAY OR THAT MUST BE DELEGATED BY A HEALTH BOARD
UNDER THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014**

RESPONDENT INFORMATION FORM

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NGO (Children's Sector)

PROPOSALS FOR REGULATIONS PRESCRIBING FUNCTIONS THAT MAY OR THAT MUST BE DELEGATED BY A HEALTH BOARD UNDER THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

CONSULTATION QUESTIONS

1. Do you agree with the list of functions (Schedule 1) that may be delegated?

Yes

No

If no, please explain why:

Together agrees that there should be an option to delegate children's healthcare services. Any decisions involving services for children and young people must be made with regard to the obligations set out in the UNCRC. Article 24 of the UNCRC requires that State Parties recognise the right of the child to the enjoyment of the highest attainable standard of health and that no child is deprived of his or her right of access to healthcare services.⁸ Article 3 of the UNCRC requires that in all decisions made affecting children and young people, their best interests are a primary consideration.⁹

The Scottish Government must ensure the regulations prescribing the functions that may or must be delegated by a health board to an Integration Authority take full account of the Children and Young People (Scotland) Act 2014. This must include taking into account the provisions of Part 3 of the Act in relation to Children's Services Planning, monitoring any impact that the delegation of children's healthcare services to the Integration Authority may have on children's rights and ensuring that a clear process is set out with regards to the involvement of Community Planning Partnerships.

2. Do you agree with the list of services (Schedule 2) that must be delegated as set out in regulations?

Yes

No

If no (i.e. you do not think they include or exclude the right services for Integration Authorities), please explain why:

⁸ UN General Assembly (1989). UN Convention on the Rights of the Child (Article 24).

<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>

⁹ UN General Assembly (1989). UN Convention on the Rights of the Child (Article 3).

<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>

The list of services that must be delegated - although limited to adult services - will by their very nature impact on children and young people. Therefore, the Scottish Government must include children and young people in its deliberations and impact assessments. Children and young people should be involved throughout the development of the regulations, including throughout implementation and monitoring and evaluation in reflection of General Comment No. 12 to the UNCRC on the right of the child to be heard.¹⁰

Where only adult health services are integrated, particular attention must be given in guidance to the transition of children and young people from children's to adult health services. As stated in Together's 2013 *State of Children's Rights* report, children's organisations are clear that there is a need to provide individual support and recognise the unique circumstances of every child during transitions.¹¹ In addition, there is a need to enable children to express their views and be involved in assessing their support and care requirements, reflecting Article 12 of the UNCRC. The Scottish Government must give thorough and specific consideration to the transition period between children and adult services (refer to answer 1D) and how they will be managed as the Public Bodies (Joint Working) (Scotland) Act 2014 is rolled out.

3. Are you clear what is meant by the services listed in Schedule 2 (as described in Annex A)?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

If not, we would welcome your feedback below to ensure we can provide the best description possible of these services, where they may not be applied consistently in practice.

4. Are there any further comments you would like to offer on these draft regulations?

¹⁰ UN General Assembly (1989). *UN Convention on the Rights of the Child (Article 12)*.

<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>

¹¹ Together (2013). *State of Children's Rights in Scotland*. <http://www.togetherscotland.org.uk/pdfs/TogetherReport2013.pdf> (pg 66)

PROPOSALS FOR NATIONAL HEALTH AND WELLBEING OUTCOMES RELATING TO THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

RESPONDENT INFORMATION FORM

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Please tick as appropriate

Yes

No

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NGO (Children's sector)

PROPOSALS FOR NATIONAL HEALTH AND WELLBEING OUTCOMES RELATING TO THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

CONSULTATION QUESTIONS

1. Do you agree with the prescribed National Health and Wellbeing Outcomes?

Yes

No

If no, please explain why:

Together supports the outcomes-based approach and the monitoring framework put forward in the proposals, although strongly recommends that the outcomes and indicators take much more of a rights focus.

The outcomes should be reviewed using the UNCRC and its general principles should influence the final decided outcomes. This includes the right of the child to be heard in decisions affecting them (Article 12); the best interests of the child as a primary consideration in all decisions affecting them (Article 3) and the right to non-discrimination regardless of any status (Article 2).¹² These principles must be embedded throughout the regulations and as part of the intended outcomes. As mentioned previously, the rights of children will be impacted upon as service-users as well as children whose parents/carers are service-users. Therefore, regardless of whether the option to integrate with children's services is taken up, children and young people must be considered throughout the proposed regulations and corresponding health and wellbeing outcomes.

To strengthen an outcomes-based approach, Together recommends that the prescribed outcomes involve greater recognition of wellbeing. Furthermore, the use of the 9 National Health and Wellbeing Outcomes may limit the full consideration of social care. Wellbeing indicators must include the definition of wellbeing included in the Children and Young People (Scotland) Act 2014 and refer to the GIRFEC programme and SHANARRI indicators.¹³ This is crucial, whether or not the option is taken to integrate children's services within the Scheme, as changes to adult services are likely to impact on children's health and wellbeing.

2. Do you agree that they cover the right areas?

Yes

No

¹² UN General Assembly (1989). UN Convention on the Rights of the Child (Article 2,3,12).

<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>

¹³ Scottish Government (2014). Children and Young People (Scotland) Act 2014

http://www.legislation.gov.uk/asp/2014/8/pdfs/asp_20140008_en.pdf

3. If not, which additional areas do you think should be covered by the Outcomes?

There must be a greater focus on human rights and children's human rights within the outcomes framework. The Scottish Government has made clear its ambition to 'make rights real' for all children and young people in Scotland through the Children and Young People (Scotland) Act 2014.¹⁴ To streamline legislation and to ensure that the ambitions for furthering children's rights are achieved, it is essential that the protection, respect and fulfilment of children's rights are included in the set outcomes.

A rights framework is also necessary to ensure that duty bearers (including Local Authority, Health Board, Integration Authority and Scottish Ministers) are reminded of and seek to fulfil their responsibilities of realising the rights of, whilst responding to the needs of, those using or affected by the delivery of health and social care services.

At present there is no indicator or outcome on being heard and having views taken into account, or about involvement of those using or affected by services in service design and evaluation. Together strongly recommends that the Scottish Government include an outcome that ensures that children and young people as well as young adults and the older population are listened to, included in decisions and are able to influence service design and evaluation.¹⁵ Engagement should be meaningful, long-term and not a one-off event; service users and those impacted by changes to service delivery must also be involved in the monitoring and evaluation of the services delivered.

4. Do you think that the National Health and Wellbeing Outcomes will be understood by users of services, as well as those planning and delivering them?

Yes

No

5. If not, why not?

¹⁴ Scottish Government (2014). Children and Young People (Scotland) Act 2014
http://www.legislation.gov.uk/asp/2014/8/pdfs/asp_20140008_en.pdf

¹⁵ UN General Assembly (1989). UN Convention on the Rights of the Child (Article 12).
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6. Are there any further comments you would like to offer on these draft Regulations?

**PROPOSALS FOR INTERPRETATION OF WHAT IS MEANT BY THE
TERMS HEALTH AND SOCIAL CARE PROFESSIONALS RELATING
TO THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014**

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**PROPOSALS FOR INTERPRETATION OF WHAT IS MEANT BY THE
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CONSULTATION QUESTIONS

1. Do you agree that the groups listed in section 2 of the draft regulations prescribe what 'health professional' means for the purposes of the Act?

Yes

No

2. If you answered 'no', please explain why:

3. Do you agree that identifying Social Workers and Social Service Workers through registration with the Scottish Social Services Commission is the most appropriate way of defining Social Care Professionals, for the purposes of the Act?

Yes

No

4. If you answered 'no', what other methods of identifying professional would you see as appropriate?

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

**PRESCRIBED FUNCTIONS CONFERRED ON A LOCAL AUTHORITY
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(SCOTLAND) ACT 2014**

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or

Yes, make my response and name available, but not my address

- (d)** We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate

Yes

No

4. Additional information – I am responding as:

Please tick as appropriate

1. NHS Health Board	
2. Other NHS Organisation	
3. General Practitioner	
4. Local Authority	
5. Other statutory organisation	
6. Third sector care provider organisation	
7. Independent / private care provider organisation	
8. Representative organisation for professional group	
9. Representative organisation for staff group e.g. trade union	
10. Education / academic group	
11. Representative group for patients / care users	
12. Representative group for carers	
13. Patient / service user	
14. Carer	

15. Other – please specify

NGO (Children's sector)

**PRESCRIBED FUNCTIONS CONFERRED ON A LOCAL AUTHORITY OFFICER
RELATING TO THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT
2014**

CONSULTATION QUESTIONS

1. Do you believe that the draft Regulations will effectively achieve the policy intention of the Act?

Yes

No

2. If not, which part of the draft Regulations do you believe may not effectively achieve the policy intention of the Act, and why?

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

In response to the prescribed functions conferred on a local authority officer, officers should be required to meet the Common Core of Skills, Knowledge & Understanding and Values for the Children's Workforce in Scotland.¹⁶ This will help to ensure that children's rights are embedded into processes from the outset, and that the rights of children as service users or as those affected by services provided to adults are fully respected, protected and fulfilled.

¹⁶Scottish Government (2012). Common Core of Skills, Knowledge & Understanding and Values for the Children's Workforce in Scotland
<http://www.scotland.gov.uk/Publications/2012/06/5565>