

## 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 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.<sup>1</sup> It is essential that this is recognised throughout the regulations and guidance accompanying the Act.

The Scottish Government must ensure regulations and guidance for the Act respect, protect and fulfil the rights enshrined in the UNCRC. This will require a continuous process of impact assessment and evaluation throughout their development and delivery.<sup>2</sup> As such, it is essential that the Scottish Government undertake a full Child Rights Impact Assessment 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.

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.

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<sup>1</sup> 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](http://www.celcis.org/media/resources/publications/Integrating_Health_and_Social_Care_in_Scotland.pdf)

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

- 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.

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

RESPONDENT INFORMATION FORM

**Please Note** this form **must** be returned with your response to ensure that we handle your response appropriately. **If you are responding to more than one set of regulations at the same time, you only need to complete this form once.**

**1. Name/Organisation**

**Organisation Name**

Together (Scottish Alliance for Children's Rights)

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

**Surname**

Harris

**Forename**

Juliet

**2. Postal Address**

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9 Haymarket Terrace,

Edinburgh

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**3. Permissions - I am responding as...**

**Individual**

/

**Group/Organisation**

*Please tick as appropriate*

**(a)** Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

**Please tick as appropriate**

Yes  No

**(c)** The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

**(b)** Where confidentiality is not requested, we will make your responses available to the public on the following basis

**Please tick ONE of the following boxes**

Are you content for your **response** to be made available?

**Please tick as appropriate**  
 Yes  No

Yes, make my response, name and address all available

**or**

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

**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**

<b>1. NHS Health Board</b>	
<b>2. Other NHS Organisation</b>	
<b>3. General Practitioner</b>	
<b>4. Local Authority</b>	
<b>5. Other statutory organisation</b>	
<b>6. Third sector care provider organisation</b>	
<b>7. Independent / private care provider organisation</b>	
<b>8. Representative organisation for professional group</b>	
<b>9. Representative organisation for staff group e.g. trade union</b>	
<b>10. Education / academic group</b>	

<b>11. Representative group for patients / care users</b>	
<b>12. Representative group for carers</b>	
<b>13. Patient / service user</b>	
<b>14. Carer</b>	
<b>15. Other – please specify</b>	NGO (Children’s sector)

## ANNEX 1(D)

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

#### **CONSULTATION QUESTIONS**

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

Yes

No

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

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

The prescribed groups of persons to be consulted by Local Authorities, Health Boards and Integration Authorities must also include children and young people, their families and carers, and the various types of providers of support and care to children.

Regardless of whether or not the option is taken to integrate children's services into adult health and social care, services for adults and particularly those provided to parents, carers and families, will impact on children and young people.

The draft Regulations in Annex 1A must reflect Article 12 of the UNCRC which requires that State Parties *“assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.”*<sup>3</sup>

In preparing the Regulations and any corresponding guidance, the Scottish Government should refer to General Comment No. 12 to the UNCRC on the right of the child to be heard.<sup>4</sup>

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<sup>3</sup> UN General Assembly (1989). *UN Convention on the Rights of the Child (Article 12)*

<sup>4</sup><http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsqlkirKQZLK2M58RF%2f5F0vHKTUsoHNPBW0noZpSp5d6MSKIT09ePYFY4cH5tmyyvq4tVAP%2fSH9%2bBtZWkhEtAmUXeyPIFduGREUMQJZh%2fHpLV>

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

#### CONSULTATION QUESTIONS

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

Yes

No

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

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

Regardless of whether or not the option is taken to integrate children's services into adult health and social care, services for adults and particularly those provided to parents, carers and families, will impact on children and young people. There must be duties and responsibilities upon members of the Integration Joint Board to consult with children and young people and to listen to and take into account their views (reflecting Article 12 of the UNCRC).<sup>5</sup> Such views should be presented to the Board and in all actions and decision-making processes, and the best interests of the child must always be a primary consideration, upholding Article 3 of the UNCRC.

If the decision is taken to integrate children's services, Together suggests that there should be a dedicated group of the Integration Joint Board responsible for decisions relating to children's services. This group should have regulations in place ensuring that children and young people are consulted upon regarding any decisions affecting them and that their voices are heard and taken fully into account.

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

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<sup>5</sup> UN General Assembly (1989). *UN Convention on the Rights of the Child (Article 12)*

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

#### Consultation Questions

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

Yes

No

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

The list of membership within the draft Order must contain a requirement to include members with expertise in children's health and social care. In all decisions made by the Integration Joint Monitoring Committee, the best interests of children and young people must be the paramount consideration (reflecting Article 3 of the UNCRC).<sup>6</sup> Even if children's services are not integrated then the Committee must recognise that their decisions will have an impact on children, and particularly those with parents and carers using health and social care services.

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

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

Together recommends that if the decision is made to integrate children's services, then the draft order setting out the minimum requirement for the membership of the Committee should include an equivalent number of adult and children health and social care representatives. Service user representatives on the committee should include children and young people, or advocates to speak on their behalf. As required by Article 12 of the UNCRC, children must be assured their right to express their views in all matters affecting them, and for these views to be fully taken into account in accordance with their age and maturity.<sup>7</sup> Article 12 must be protected, respected and fulfilled throughout the establishment, membership and proceedings of an Integration Joint Monitoring Committee. Together suggests that it may be appropriate to form an additional committee to be responsible for regular decisions that relate to children's services, which would also be part of the adult services committee.

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<sup>6</sup> UN General Assembly (1989). *UN Convention on the Rights of the Child (Article 3)*

<sup>7</sup> UN General Assembly (1989). *UN Convention on the Rights of the Child (Article 12)*



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

#### **CONSULTATION QUESTIONS**

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

Yes

No

2. If no, what changes would you propose?

The requirement to embed service users and their carers in the strategic planning process is welcomed but this must include embedding the views of children of service users and their carers. Strategic planning must always consider the impact of that any changes adult services may have on the rights of children and young people, as set out in the UNCRC. The right to be heard (Article 12) and the requirement to consider the best interests of the child as a primary consideration (Article 3) must be reflected throughout the establishment of a strategic planning group and throughout the planning process.<sup>8</sup> Together would be keen to support the Scottish Government in embedding a child rights approach throughout the establishment and processes of strategic planning groups.

It is crucial that children and young people's views and representatives of children's health and social care services are part of the strategic planning group to ensure that full consideration is given to the smooth and effective transitions from children's to 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.<sup>9</sup> 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 and their views and experiences must be fully taken into account during strategic planning processes and in the final Strategic Plan.

The draft Regulations relating to strategic planning groups do not outline arrangements should the decision be taken to integrate children's services. If children's services are integrated then there must be Regulations in place to include equivalent children's services representatives and service users (or advocates to ensure that their voices are heard). Together strongly recommends that an additional section is included within the draft Regulations if children's services are integrated, to clearly outline how this will be factored in to the entire strategic planning process.

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<sup>8</sup> UN General Assembly (1989). *UN Convention on the Rights of the Child (Article 3 & 12)*

<sup>9</sup> Together (2013) *State of Children's Rights in Scotland*

Advocacy must be available for children of adult service users and children who use services that are integrated. Together recommends that the Scottish Government refer to their recently published 'Children's Advocacy Guide' and ensure that advocacy services are accessible across all Local Authority areas.<sup>10</sup> As highlighted in Together's 'State of Children's Rights in Scotland' report 2013, Together's members have stressed the importance of providing advocacy support for minority ethnic children, looked after children and children with disabilities, who repeatedly face additional barriers to having their right to be heard (Article 12 of the UNCRC) respected, protected and fulfilled.

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

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<sup>10</sup> <http://www.scotland.gov.uk/Topics/People/Young-People/families/advocacy>

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

**CONSULTATION QUESTIONS**

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

Yes

No

2. If no, please explain why:

Together is concerned at the lack of mention of children and young people and children's services in the Regulations for the prescribed form and content of performance reports relating to the Act.

There must be a requirement for Integration Authorities to report on progress of delivering effective joined-up planning between children's services and adult services, regardless of whether they choose to include children's services in the Integration Scheme. Performance reports must refer to the steps taken to ensure smooth and effective transitions for service users moving from children to adult health and social care services.

When children's services are not integrated then Together is keen to stress that children, and especially those with a parent or carer who is a health and/or social care service user, will be impacted on changes made as a result of implementation of the Act. The impacts on children and young people must be included in the reporting requirements of the Integration Authority; a Child Rights Impact Assessment should be undertaken to inform this reporting (please refer to additional notes on page 1).

When children's services are integrated, then this must be fully reflected in the performance report. Together recommends that in addition to reporting on the progress of delivering the national health and wellbeing outcomes, the Integration Authorities report on their progress in delivering children's rights, as outlined in the UNCRC. In addition, reporting of total spend on health and social care services should reflect the spend on services provided to people under 18.

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

Yes

No

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

Together recommends that in addition to reporting on the progress of delivering the national health and wellbeing outcomes, the Integration Authorities report on their progress in delivering children's rights, as outlined in the UNCRC. This must link to the duty on Scottish Ministers in Part 1 of the Children and Young People (Scotland) Act 2014, to keep under consideration the steps they could take to further the UNCRC requirements.<sup>11</sup> This could help to further the Scottish Government's ambition to 'make rights real' for children in Scotland.

The Scottish Government must ensure the Regulations outlining what should be included in the performance report 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 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. Preparation of performance reports by the Integration Authority must take account of any reports produced as a result of Section 13 of the Children and Young People (Scotland) Act 2014, on a children's services plan for that Local Authority area.

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

Yes

No

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

Regulations for the form of the annual performance should ensure that the reports are provided in an accessible format and are widely available. Together recommends that child-friendly and age-appropriate versions of performance reports are available for children and young people, to inform them of how their Local Authority is working to further their rights and, should the decision be taken to integrate children's services, how their services are being improved. As required by the UNCRC, State Parties must ensure that children have the right to receive and impart information and ideas of

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<sup>11</sup> Scottish Government (2014). *Children and Young People (Scotland) Act 2014: Part 1*

all kinds (Article 13) and that children have access to information and material, especially those aimed at the promotion of his or her social wellbeing and physical and mental health (Article 17).<sup>12</sup>

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

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<sup>12</sup> UN General Assembly (1989). *UN Convention on the Rights of the Child (Article 13 & 17)*