RCN integration briefing 1:
FAQs on the new Scottish legislation to integrate health and social care

What is this briefing for?
This briefing is intended to support nurses to understand key elements of the new legislation on integration. It has been written specifically to inform you as a nurse who is attending an RCN workshop on integration in October 2014[1].

The briefing is written as a basic guide[2]. This is not because the RCN believes nurses do not already understand the context of the new legislation, but because we know that partnerships are in very different stages of development across Scotland and the detail of the reforms are complex and still changing. We hope this briefing will help provide some consistency of understanding as you join us for our integration seminar.

We, like you, are still grappling with the detail of these significant changes. We will continue to update this briefing as new details are confirmed and will post updated versions on the RCN integration web pages. Please feel free to share this paper if you think it will help discussions in your board or partnership area and let us know if you have questions, challenges or things you think we could improve.

What is the Public Bodies (Joint Working) (Scotland) Act 2014?
This is the legislation that sets out how health and social care services for adults will be integrated across Scotland. The Act was passed in the Scottish Parliament with support from all political parties. The legislation will result in radical changes in how acute and community health care services, as well as social care services, will be planned, funded and delivered in the future.

The Act focuses on the responsibilities of two public bodies - NHS boards and local councils – as these are the organisations that have existing duties to provide care and which can be given legal direction. However, the scope of this reform is intended to be much wider. It is meant to improve the participation of the third and independent sectors, as well as people using services and their carers, in the planning and delivery of integrated care.

The Act itself is very technical and focuses on the high-level legal structures and processes for how integration is expected to work in each partnership area. Further legislation in autumn 2014 will set out some of the detail of exactly how sections of the new legislation will work (for example, who must have a seat on a partnership and exactly which NHS services must be included). Guidance will then be published to help explain some of this technical detail.

The legislation sets out core principles for planning and delivering integrated care. Additional legislation due this autumn will define the desired outcomes of the reforms for people using services, for carers and for staff. However, the legislation does not otherwise touch on many of the issues of “how” different staff, people using services and carers will be

[1] This is part of an RCN programme to support nursing leaders through the transition to integration and has been funded by the Scottish Government.
[2] This paper is an informal outline of the RCN’s understanding of legislation that is complex and, at the time of writing, incomplete. It is not intended to be formal legal guidance. We will continue to adapt and update this paper as we hear feedback from members and as legislation is finalised.

supported to come together to deliver this major reform agenda. This will be down to the work of local partnerships.

Why was this law passed?
For some years, NHS boards and local councils have had the powers to integrate care and budgets. However, they have mostly chosen not to use these powers. This new legislation was prompted by frustration from politicians, staff and people using services that care remained often disjointed, inefficient and – as a result – of poor quality for many. It means that integration is no longer optional, but creates a duty for councils and NHS boards to integrate certain health and social care services for adults, at a minimum.

The Scottish Government set out its intent in this legislation as follows:

> *The policy ambition for integrating health and social care services is to improve the quality and consistency of services for patients, carers, service users and their families; to provide seamless, joined up 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 so; and to ensure resources are used effectively and efficiently to deliver services that meet the increasing number of people with longer term and often complex needs, many of whom are older.*[3]

When will the changes happen?
The Act will come into force in April 2015, when CHPs and CHCPs will come to an end and the new Integration Authorities (partnerships) will take over. Change is already underway as NHS board and council partners prepare for the "go live" date by setting up shadow arrangements, deciding which model of integration to use, appointing interim Chief Officers and starting to prepare their Integration scheme (partnership agreement).

The Scottish Government will expect the new Integration Authorities to be fully up and running, with strategic plans in place, by April 2016.

The final legislation and the guidance won't be completed until December 2014 at the earliest, so there are still some areas of uncertainty about the exact detail of what councils, NHS boards and Integration Authorities will be expected to deliver.

In very broad terms, what does the Act say?
It says that:

- all territorial NHS boards and local councils must come to an agreement (the integration scheme) about how they will integrate health and social care services for adults. The headings that this agreement must cover will be set out in legislation before the end of 2014. Scottish Ministers must sign off this agreement. Scottish Ministers will also impose change if the partners cannot come up with an agreement.
- all activity to plan and deliver integrated health and care services must take account of the integration principles (see Annex A) and show that it will help people achieve the national health and wellbeing outcomes (see Annex B).
- integration can take place by setting up an Integration Authority in, essentially, one of two ways:
    - by creating a new entity called a Body Corporate that will be responsible for planning all integrated services in the partnership area,

3 http://www.scottish.parliament.uk/S4_Bills/Public%20Bodies%20(Joint%20Working)%20(Scotland)%20Bill/b32s4-introd-pm.pdf

    - or by the NHS board or the council being given this responsibility (often called the Lead Agency model, which is essentially the model being used in Highland already).
- the NHS board and council must delegate certain health and social care functions (types of services or activity) and the money for these functions to the Integration Authority. It may also choose to delegate other functions. There are a small number of health functions that we expect will be banned from being delegated (e.g. the regulation of nurses).
- the Integration Authority will be responsible for preparing and signing off the strategic plan (sometimes referred to in the past as a commissioning plan or joint strategic commissioning plan) for the area, which will decide exactly how these functions will be provided and the money spent.
- there are certain duties placed on the Integration Authority for how to prepare a strategic plan and who must participate in this process and when. This includes setting up a Strategic Planning Group.
- the Integration Authority must include at least two "localities" within the partnership area (with the intention of ensuring devolved decision making to the most local level)
- the Integration Authority can direct the NHS board and council to deliver the strategic plan, and the board and council are obliged to follow these instructions.
- Integration Authorities must report on their activities in particular ways each year.
- strategic plans must be regularly reviewed.
- Healthcare Improvement Scotland and the Care Inspectorate will provide scrutiny and improvement support around the integrated strategic plan and assess how effectively services are complying with the integration principles and contributing to achieving the national health and wellbeing outcomes.
- HIS and the Care Inspectorate can carry out joint inspections of health and social care services.

This is just a bare bones description of what the Act includes. There are many other details and technical changes in the Act that partnerships will need to understand to follow the letter and spirit of the new law.

Can you explain what exactly integrated care will look like?
No. Some things, like the core membership of the new Integration Authorities, will be set out in legislation. However, the detail on what services will look like, exactly how staff will come together and what people using services will experience, for example, is being left to local partners to decide. It is likely that, over time, services and approaches might look quite different in different parts of Scotland as decisions are taken locally.

What is an Integration Authority?
An Integration Authority is the body that will be responsible for planning integrated care. It will decide which integrated services will be provided, how they will be funded and what they should look like. They will then direct organisations, like the NHS board, to deliver those services.

In the Body Corporate model – which we currently expect to be the model almost all partnerships will use – the **Integration Joint Board** will be the governance body for planning integrated care. We expect legislation this autumn to set out that voting members will be made up of equal numbers of local councillors and NHS board Non-Executive Directors. We also think it will say that if a board can't field enough Non-Executive Directors across its partnerships, it does have the option to appoint NHS Executive Directors instead. There will be a number of non-voting seats on each Integration Joint Board covering, for example, professional advisers and representatives of localities and service users. The minimum expectations of who will take these non-voting seats will only be clear by the end of 2014.

In the Lead Agency Model, either the council or the NHS takes on the role of Integration Authority. However an **Integration Joint Monitoring Committee** will be set up to provide oversight of the work of the Lead Agency. We anticipate that this committee will also be made up of equal numbers of councillors and board Non-Executives, as well as other representatives such as key professions. Again, the exact detail will be ready by the end of 2014.

Who can put together an Integration Authority?
An Integration Authority is established by an agreement between the NHS board and one or more of the local councils within the NHS boundary. In almost all cases this is likely to be a partnership between one council and one NHS board, using the council boundaries to define the partnership.

Some NHS boards will be part of a number of partnerships. NHS Greater Glasgow and Clyde, for example, is expected to be part of six different Integration Authorities. There are obligations in the new laws for partnerships to have regard to each other's plans and activities in these circumstances.

Ministers also have the power to set up Integration Authorities if things aren't working well between a council or board or they can't reach agreement.

What is an integration scheme?
An integration scheme is the agreement made between the NHS board and the council(s) who will make up an Integration Authority (partnership). In essence, it sets out the make-up of the Integration Authority and how it will work.

Legislation going through the Scottish Parliament at the end of 2014 will set out the broad headings this agreement must cover and some of the detail expected by Scottish Ministers: for example, exactly how care and clinical governance and financial governance will operate in the Integration Authority.

The integration scheme is a key document as it puts an obligation on the Integration Authority and the NHS / council partners to deliver the detail of this agreement.

Scottish Ministers will have to sign off all integration schemes.

They must be reviewed by the NHS board and council(s) at least every five years.

What is a delegated function?
The areas that Integration Authorities will be responsible for planning are described in the Act as "delegated functions". In essence the NHS board or council hand over responsibility to the Integration Authority for the planning and funding allocations for these areas of service or activity. So, these delegated functions will set the scope of influence of the Integration Authority.

The final legislation will set out which NHS and social care services must be delegated in all areas. It will also set out those that may be delegated if the council/NHS board choose and those that can't. This means that the scope of each partnership is likely to be slightly different across Scotland as different areas make different choices about the "may" list of delegated functions.

At the time of writing, the legislation which will determine the list of NHS services that must / may / cannot be delegated is still being finalised. This will pass through the Scottish Parliament by the end of 2014. However, the expected "must" list of delegated functions is

extensive and is likely to include all health services currently provided in the community for adults and a significant proportion of activity in hospitals.

Functions are delegated to the Integration Authority, along with budgets and all the duties on health boards and councils that go with these particular functions. The Integration Authority must then direct organisations to carry out these delegated functions. If the Lead Agency model is being used, the Integration Authority and delivery organisation may be the same thing (i.e. the NHS board might be the Lead Agency writing the strategic plan and also the organisation delivering all District Nursing functions). In the Body Corporate model, the Integration Authority will direct other organisations to carry out the delegated functions.

What about children?
The only legal duties in this Act relate to services delivered to adults. However, NHS boards and councils can choose to include children's services within their partnership's activities. At the last count, around one third of partnerships intended to include children, a third didn't and a third were undecided.

What is a Chief Officer?
The Chief Officer is a key appointment for partnerships. In the financial guidance to the Act, the Chief Officer is described as the accountable officer for the Integration Authority in everything except finance. They will also have an operational role in the delivery of integrated services.

In the Body Corporate model they will be appointed by the Integrated Joint Board, in discussion with the NHS board and council. In practice, we expect they will be employed by one of the public bodies and seconded to the Integration Authority. They will be accountable jointly to the Chief Executives of the council and NHS board. In the Lead Agency model, the Chief Officer will be the Chief Executive of the Lead Agency.

What is a strategic plan?
Strategic planning is at the heart of integration and is intended to be the means by which services are redesigned in an integrated way to improve the quality and coherence of care for people using them.

The process to develop a strategic plan will bring together NHS board members, councillors, third and independent sector organisations, staff, people using services and carers to consider the needs of their area and allocate funding to health and care services which will effectively meet those needs, prevent poor health and wellbeing and help achieve the national outcomes. The strategic plan must take the integration principles into account.

In effect, a large integrated budget will be in the hands of the Integration Authority and the strategic plan will decide how this money will be spent to best effect. In reality, the first set of strategic plans produced in 2015-16 are unlikely to bring about radical change in most areas, as everyone has to learn how to operate in this new world. Over time, however, strategic planning will bring about radically different decisions about which services to fund, which to stop funding and what services look like to be effective.

What is locality planning?
Locality planning is intended to help keep the focus of integration on improving care in very local communities. It will draw on the knowledge and experience of staff, organisations from the public, third and independent sectors, people using services and carers at the frontline. It is also intended to allow for the delegation of some decisions about funding and services to local levels by creating a structure to allow this. Locality plans should inform the partnership-wide strategic plan.

Every Integration Authority must have at least two localities in its boundaries. But the Act itself doesn't say much about localities. There is, as yet, no formal guidance on what a locality is or how it might operate. The Scottish Government has been consulting informally on this and we hope that further information will be coming out soon.

Will I be involved?
Yes! There are various obligations on NHS boards, councils and Integration Authorities to involve staff at various points in the process. But given that nurses and health care assistants will deliver vast amounts of integrated care across partnerships, if you don't have opportunities to shape and comment on the decisions being made something is not working. The RCN is encouraging nursing staff across Scotland to find any way they can to contribute to these reforms and help get them right for people using nursing services.

You can keep up to date with RCN activity on the implementation of integration at www.rcn.org.uk/scotlandintegration and the Government's own website is at http://www.scotland.gov.uk/topics/health/policy/adult-health-socialcare-integration

If you have any comments on this briefing that will help us make it better for nurses working through the transition, please contact Rachel.Cackett@rcn.org.uk

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Appendix A – the integration principles (final)

The integration principles are set out in two separate parts of the Act: one relating to planning and one to delivery of integrated care. The core content of the two set of principles are identical and are intended to describe the "how" of integrating care. These are now in law and will not change as the transition takes place.

(a) that the main purpose of services which are provided in pursuance of integration functions is to improve the wellbeing of service-users,

(b) that, in so far as consistent with the main purpose, those services should be provided in a way which, so far as possible—

(i) is integrated from the point of view of service-users,
(ii) takes account of the particular needs of different service-users,
(iii) takes account of the particular needs of service-users in different parts of the area in which the service is being provided,
(iv) takes account of the particular characteristics and circumstances of different service-users,
(v) respects the rights of service-users,
(vi) takes account of the dignity of service-users,
(vii) takes account of the participation by service-users in the community in which service-users live,
(viii) protects and improves the safety of service-users,
(ix) improves the quality of the service,
(x) is planned and led locally in a way which is engaged with the community (including in particular service-users, those who look after service-users and those who are involved in the provision of health or social care),
(xi) best anticipates needs and prevents them arising, and
(xii) makes the best use of the available facilities, people and other resources.

Appendix B – the health and wellbeing outcomes (draft)

These national outcomes help to describe what success will look like for integrated care. They do not replace individual outcomes that people using services will define for their own care.

These are not yet finalized and will be considered by the Scottish Parliament over the autumn. Below is the latest public version of the draft.

1. *People are able to look after and improve their own health and wellbeing and live in good health for longer.*
2. *People, including those with disabilities, long term conditions, or who are frail, are able to live, as far as reasonably practicable, independently and at home or in a homely setting in their community.*
3. *People who use health and social care services have positive experiences of those services, and have their dignity respected.*
4. *Health and social care services are centred on helping to maintain or improve the quality of life of service users.*
5. *Health and social care services contribute to reducing health inequalities.*
6. *People who provide unpaid care are supported to reduce the potential impact of their caring role on their own health and well-being.*
7. *People who use health and social care services are safe from harm.*
8. *People who work in health and social care services are supported to continuously improve the information, support, care and treatment they provide and feel engaged with the work they do.*
9. *Resources are used effectively in the provision of health and social care services, without waste.*