

The Improvement Service

ELECTED MEMBER BRIEFING NOTE

Health and Social Care Integration: the Role of All Elected Members



What is the purpose of the briefing note series?

The Improvement Service (IS) has developed an Elected Members Briefing Series to help elected members keep pace with key issues affecting local government.

Some briefing notes will be directly produced by IS staff but we will also make available material from as wide a range of public bodies, commentators and observers of public services as possible.

We will use the IS website and elected member e-bulletin to publicise and provide access to the briefing notes. All briefing notes in the series can be accessed at www.improvementservice.org.uk/elected-member-guidance-and-briefings.html

About this briefing note

This briefing note has been produced in partnership between the Improvement Service, COSLA and Scottish Government. Development of this briefing note is in response to feedback from elected members on their experience of health and social care integration locally, following implementation of the Public Bodies (Joint Working) Scotland Act (2014) ('the Act').

The briefing is concerned with the role and interests of councils as a statutory integration partner, and as a democratic sphere of government accountable to people in communities for the services they receive.

It is targeted towards elected members who do not currently serve on the new integration structures, but we hope it will also be of interest to those who do. It is intended to support elected members to have confidence in expressing a legitimate interest in integration authority activity as a part of fulfilling their responsibilities for supporting close partnerships across the totality of the public sector, in order to deliver better outcomes for the communities that they are accountable to.

This briefing note is not intended to provide a comprehensive guide to integration.

Background

The Public Bodies (Joint Working) Scotland Act (2014) brought about significant change in the way health and social care services are planned and delivered. The Act required local authorities and NHS boards to integrate the governance, planning and resourcing of adult social care services and key health services, by establishing an ‘integration authority’ (IA). It also allowed for councils and NHS boards to delegate further services to their IA by agreement.

Councils and NHS boards could choose from two structural models for IAs – a body corporate known as an Integration Joint Board (IJB), or a lead agency model featuring an Integrated Joint Monitoring Committee (IJMC). This briefing will be of interest to elected members irrespective of the model chosen, and therefore we use the term ‘integration authority’ throughout, which refers to both models.

A separate elected member briefing provides the background to integration and outlines the key provisions of the Act and the requirements that flow from it, and is available from www.improvementservice.org.uk/documents/em_briefing_notes/em-briefing-public-bodies-joint-working.pdf.

A national performance audit of health and social care integration carried out by Audit Scotland in 2015 also provides a useful overview, and is available from www.audit-scotland.gov.uk/report/health-and-social-care-integration

Introduction

Integration has brought with it a corresponding change in the governance, reporting and accountability arrangements put in place locally to provide the framework within which the new IAs operate. These are designed to ensure IAs have full and genuine control over the functions and budgets devolved to them in order to be able to re-design services. As such, councils (and NHS boards) can no longer make decisions about delegated services, or overturn decisions made by the IA. However, this doesn’t mean that elected members who do not sit on the IA don’t have a legitimate interest in, or responsibility for, how integration is working to deliver improved outcomes for communities.

IAs cannot achieve the shift in the balance of care and investment in early intervention and prevention that is required to secure a sustainable health and social care system acting on their own. Decisions the council makes about non-delegated services like leisure, employment and capital assets can have a significant impact on health and wellbeing outcomes, as do decisions taken by NHS boards about non-delegated services and by community planning partnerships. Moreover, some elected members will have responsibility for services closely connected to delegated functions, for example, housing, education, and criminal justice or children’s services

(where these are not delegated). All of this has the potential to help or hinder the shift towards prevention and early intervention which is required to take demand out of the system and secure sustainable health and social care services for the future. It is therefore important that decisions about non-delegated services, and community planning activity, are taken with sufficient knowledge about IA activity and how each might impact on the other.

Furthermore, although responsibility for strategic planning for delegated services lies with IAs, councils retain their statutory duties in relation to those services – for example in relation to the Social Work (Scotland) Act (1968), and for ensuring the services IAs commission from the council deliver Best Value. Over the longer term, elected members also have an important role to play in considering whether their chosen integration arrangements are meeting those duties and continuing to deliver Best Value in the round.

Taking all of this into account, elected members will want to ensure they are kept fully informed of the impact of integration for the people who use local health and care services, irrespective of whether those elected members currently serve on any of the new integration structures.

The remainder of this briefing explores these issues in more detail and sets out:

- issues elected members will want to consider in relation to local governance arrangements for integration
- the role of elected members serving on IA structures and their relationship with the wider council
- specific areas of interest and/or responsibility for elected members who do not serve on IA structures
- examples of how different IAs are approaching these issues
- where to get further information and guidance.

Issues to consider

Although responsibility for delegated or commissioned services lies with the new IAs, councils retain their statutory duties in relation to those services – for example, in relation to the Social Work (Scotland) Act (1968), and for ensuring Best Value. Councils therefore need to ensure that governance arrangements surrounding integration, including those between the IA and the wider council, are sufficiently robust.

Whilst corporate governance requirements vary from sector to sector and organisation to organisation, essentially all are about the underpinning processes by which organisations are directed and controlled and the associated transparency and accountability. Put simply, an organisation needs to have clear direction and accountability and appropriate working arrangements in place to ensure that it achieves what it sets out to do.

In addition to the corporate governance responsibilities for the council, all elected members have a responsibility to ensure that the IA, and indeed any partnership the council is involved in, is appropriately governed and held to account, and that its performance is robustly scrutinised.

Councils and NHS boards are required to set out the governance arrangements they will put in place for integration in their Integration Scheme, which is signed off by both parties and is subject to ministerial approval. These arrangements should cover clinical and care governance, financial governance and arrangements for reporting performance. Councils and NHS boards can (by mutual agreement) review their integration scheme at any time, and must review it at least every five years.

IAs are responsible for developing a joint strategic plan which sets out how services will be re-designed in order to help deliver the nine statutory health and wellbeing outcomes. The requirements to prepare a strategic plan are set out in section 29 of the Public Bodies (Joint Working) (Scotland) Act 2014. Although councils do not sign-off the strategic plan, they are statutory consultees and elected members have a key role to play in helping to shape that strategic plan through their engagement in the consultation process. Councils also have a shared power, with their NHS board, to require a change to the strategic plan if both partners are agreed that there is a risk it will not deliver the health and wellbeing outcomes and/or their relevant statutory duties. However, the more engaged elected members, and their NHS colleagues, are in the process of developing the strategic plan, the less likely it is that this power would need to be used.

Budgets for delegated functions are made available to the IJB (or lead agency) by the local authority and the NHS board, and the totality of this resource can be allocated flexibly across those functions in line with the strategic plan. Further guidance on finance is available at www.gov.scot/Resource/0048/00480494.pdf

Elected members will want to assure themselves that local governance arrangements support the council to consider whether statutory duties are being met and the IA is delivering Best Value in pursuit of the health and wellbeing outcomes on an ongoing basis. The role of the Chief Social Work Officer (CSWO) and Section 95 Officer in providing advice to the council (as well as to the IA in the case of the CSWO) is key in this respect, and further guidance on these roles is available at www.gov.scot/Publications/2016/07/3269/downloads and www.gov.scot/Resource/0048/00480494.pdf respectively.

Clarity about governance arrangements, the roles and responsibilities of members (both those that sit on IA structures and those that don't), and good working relationships are central to the success of delivering better services to communities.

The role of elected members serving on IA structures and their relationship with the wider council

Integration presents a challenge to elected members. Those serving on IA structures need to understand their new role, and those sitting within the wider council need to understand what parts of their role have changed because of integration, and what parts remain the same. Both sets of elected members need to be clear about each other's respective roles and the kind of relationship they need to have.

A key challenge for some elected members is that on top of their governance responsibilities for the council, they also sit on a board (e.g. Integration Joint Board, NHS board, charitable trust etc) and equally have corporate governance responsibilities for that board.

Elected members serving on IA structures are responsible for agreeing the joint strategic plan and ensuring its delivery. In fulfilling this responsibility, their primary concern should be whether the strategic plan is robust, focused on delivering the national health and wellbeing outcomes, and whether the services supporting its delivery are securing Best Value. These are roles that elected members will be familiar with, due to carrying similar responsibilities within their council role.

It is often emphasised that elected members sitting on IJBs (or serving on IJMCs) must represent the interests of that board; however, they also have a role to bring the perspectives the council onto the IJB (or IJMC) to help shape the strategic direction of the IJB (or IJMC) to improve outcomes for their communities. In order to be able to do this, good communication between elected members serving in IA structures and the rest of the council is vital. This is not unique to integration and elected members will be required to ensure a similar balance when serving on the board of other organisations (e.g. NHS boards, charities or various arm's length and external organisations).

Where integration is working well, balancing the need to represent the interests of the IA with the requirement to bring the perspective of the council should not present any difficulties. However, there may be times where an IA has had to make a difficult decision which may be unpopular, and elected members serving on IA structures then need to act as a community leader to make sure the changes which have been agreed happen and are understood and supported by their wider council members.

These arrangements represent a change for elected members who do not serve on IA structures, in that they no longer make decisions about adult social care services (and any other functions that have been delegated), nor can they over-turn decisions made by the IA. However, this doesn't mean that elected members who do not sit on the IA don't have a legitimate interest in, or responsibility for, how integration is working to deliver improved outcomes for communities. In

this context elected members have every right to make their views and recommendations heard, regardless of whether they have the authority to change those decisions. Furthermore, councils retain their statutory duties in relation to delegated services, including for ensuring Best Value. Elected members who do not sit on IA structures should therefore be confident in expressing a legitimate interest in IA activity.

More specific areas of interest and/or responsibility for elected members who do not serve on IA structures

i. Community leadership

- The exercising of elected members' duties to represent the electorate and provide community leadership, for example in response to complaints or in dealing with any public concerns about major service re-design
- The role all elected members play in supporting the strategic shift from beds-based models of care to community-based models

ii. Health and Wellbeing

- How non-delegated local authority services and community planning activity are contributing to prevention, earlier intervention and tackling health inequalities and how these link with the IA joint strategic commissioning plan, and whether both are making a sufficient contribution to the health and wellbeing outcomes
- How the IA is contributing to achieving the national health and wellbeing outcomes, and how this is in turn contributing to progress towards local and national targets

iii. Ongoing statutory responsibilities

- Details of the statutory duties retained by local authorities in relation to delegated functions, for example Best Value, following the public pound and statutory social work responsibilities
- How the role and function of the Chief Social Work Officer, including their responsibilities to the local authority, is supporting local authorities in ensuring statutory social work duties are met¹
- How services commissioned by the IA are contributing to delivering Best Value, and how this is being recorded and reported in support of councils' public performance reporting duties²

1 *The Role of the Chief Social Work Officer: Guidance Issued by Scottish Ministers Pursuant to Section 5(1) of the Social Work (Scotland) Act 1968*. Scottish Government, July 2016. Available at www.gov.scot/Publications/2016/07/3269

2 Local Government (Scotland) Act 2003.

- How the role and function of the Section 95 officer³ is supporting local authorities to ensure there are arrangements in place to maintain clear public accountability over the resources being directed by IJBs, in line with councils' statutory responsibilities to 'follow the public pound'⁴
- How financial risk and sustainability is being monitored and reported to the local authority, to ensure it can meet its ongoing accountabilities for the use of public funds⁵

iv. Ongoing responsibility for key functions

- How the council is ensuring retained functions, such as capital investment, procurement, HR and finance, are supporting the delivery of delegated functions and achievement of the joint strategic plan aims
- How the interface between delegated and non-delegated functions is being managed to ensure coherent delivery, for example with children's services where these are not delegated, or between children's services and education where they are
- How a coherent approach to workforce planning and staff welfare can be taken across the IA and the partner bodies (who remain the employers of IA staff, with the exception of lead agency models)

v. Mechanisms

The mechanisms that will be used to ensure elected members are kept informed about the areas of interest described above, and are able to discharge their relevant duties and responsibilities. For example:

- Local governance arrangements directing communication and interaction between the IA and parent bodies, including any locally agreed reporting arrangements (these should be set out in the integration scheme)
- The differing roles of, and relationship between, elected members serving as local authority representatives on IJBs/IJMCs and other elected members, and the relationship between them and the wider council
- Opportunities to secure information about Best Value through the council's procurement activity in response to IA directions
- Elected members' interface and engagement with the communities they represent, including conversations about local service re-design and the outcomes it is intended to deliver

3 The Section 95 Officer is a statutory post under the Local Government (Scotland) Act 1973, accountable for the administration and governance of the financial affairs of the local authority. See also *The Role of the Chief Financial Officer in Local Government*, CIPFA, 2010 www.cipfa.org/-/media/Files/Publications/Reports/role_of_CFO_in_LG_2010_WR.pdf

4 *Code of Guidance on Funding External Bodies and Following the Public Pound*, COSLA/Accounts Commission, 1996 (placed on a statutory footing in 2005 by Ministerial Direction under section 51(10 and (2) of the Local Government (Scotland) Act 2003). See also Integration Finance Guidance section 2.7.1 www.gov.scot/Resource/0048/00480494.pdf

5 Local Government (Scotland) Acts 1973 and 2003.

- The roles played by the local authority, NHS board, and IAs as community planning partners, including how they will interact as equals within the CPP as part of their mutual duty to co-operate as community planning partners

Examples of how different IAs are approaching these issues

In Moray, the Integration Chief Officer (ICO) is co-located with the council Corporate Management Team and has provided informal briefing sessions on a regular basis for elected members (irrespective of whether they are IJB Board members), since go-live on 1 April 2016.

Briefings will continue as part of a planned ongoing activity to ensure good information flow and communication. Additional sessions are provided upon request, for example where the IJB is about to consider difficult service re-design decisions which will be of interest to elected members in their community leadership role, or where issues arise that might be affecting their communities - the opportunity is there to inform and discuss. This is augmented by ICO attendance at relevant council administration group meetings and committees where constructive and open challenge is encouraged as a means to ensure elected members understand IJB activity and how it is contributing to delivering best value. This helps to ensure strategic decision-making across the council supports a partnership approach to delivering improved health and wellbeing outcomes.

These arrangements are grounded in constructive working relationships which elected members and officers, from across both the IJB and the council, have built up over time. While not everyone agrees on everything all the time, these arrangements are aimed at helping to ensure delivering positive change for communities continues to be paramount.

Examples of the governance arrangements for councils and IJBs in four other areas are available at www.audit-scotland.gov.uk/uploads/docs/report/2016/nr_160922_social_work_supp3.pdf

Key issues/questions to consider

- Have you had sight of the integration scheme which sets out governance and other arrangements for your IA?
- Do you understand how integration is working in your council, including what functions are delegated to the IA and how they are performing?
- Are you kept informed about decisions made by the IA?
- Do you have enough information about IA priorities and activities to be able to ensure other council and community planning activity is supporting IA work and contributing to achieving the national health and wellbeing outcomes?

- Are you confident that the governance arrangements surrounding health and social care are working well and that there are no gaps, including in how financial risk and sustainability is being monitored?
- Do you understand the statutory role of the Chief Social Work Officer (CSWO) in relation to both the council and the IA, and do you have good access to the CSWO?
- Do you have access to good quality information (for example about finance and performance) to enable you to assess whether delegated services are delivering Best Value?
- Do you have access to the Integration Chief Officer (or relevant Chief Executive, or other senior officer, under the lead agency model)?
- Do you have access to the elected members serving on IA structures and are you clear about your respective roles and responsibilities?
- Are you clear about the local community leadership role of elected members in facilitating conversations with their communities about changes to local services; for example, the role all elected members play in supporting the strategic shift from beds-based models of care to community-based models?
- Do you have access to local support, for example through the council's member services, to assist you in fulfilling the roles outlined in this briefing?

Elected members may also wish to consider further questions set out a checklist published alongside Audit Scotland's report on social work in Scotland, available at www.audit-scotland.gov.uk/uploads/docs/report/2016/nr_160922_social_work_supp4.pdf

Summary

This briefing is concerned with the role and interests of councils as a statutory integration partner, and as a democratic sphere of government accountable to people in communities for the services they receive. It is targeted towards Elected members who *do not* currently serve on the new integration structures, to support them to have confidence in expressing a legitimate interest in IA activity as a part of fulfilling their responsibilities for ensuring Best Value and supporting close partnerships across the totality of the public sector.

Elected members will want to consider their role and interest across three key areas as follows:

Partnership across other council services and community planning

The role of elected members in ensuring non-delegated services (e.g. leisure, housing, employability) make a significant contribution to delivering the national health and wellbeing outcomes and help to achieve a sustainable health and social care service into the future.

The role of elected members in supporting close partnerships across the totality of the public sector, for example through local community planning partnerships.

Performance and Best Value

The role of elected members in considering how integrated arrangements are contributing to health and wellbeing outcomes and delivering Best Value

Local community leadership

The role of elected members in conversations with their communities about changes to local services; for example, the role councillors play in supporting the shift from beds-based models of care to community-based models.

Further support and contacts

A companion elected member briefing note provides basic information about the provisions of the Public Bodies Act, and is available at www.improvementservice.org.uk/documents/em_briefing_notes/em-briefing-public-bodies-joint-working.pdf

The Improvement Service has a non-partisan role to support all elected members in Scotland. The following support is currently available through the IS 'Supporting Elected Members' programme: www.improvementservice.org.uk/elected-members-development.html

More information about the Public Bodies Act, including supporting regulations, guidance, and other support materials are available from the Scottish Government:

- Statutory guidance - www.gov.scot/Topics/Health/Policy/Adult-Health-SocialCare-Integration/Implementation/ImplementationGuidance
- Regulations - www.gov.scot/Topics/archive/Adult-Health-SocialCare-Integration/Implementation/ImplementationGuidance
- Public Bodies (Joint working) (Scotland) Act (2014) - www.legislation.gov.uk/asp/2014/9/pdfs/asp_20140009_en.pdf
- Scottish Government integration page - www.gov.scot/Topics/Health/Policy/Adult-Health-SocialCare-Integration

Three recent national performance audits carried out by Audit Scotland provide a useful overview of health and social care integration and social work services:

- Audit Scotland report on Social Work Services (supplement 4 includes more detailed checklists for Elected Members) - www.audit-scotland.gov.uk/report/social-work-in-scotland
- Audit Scotland report on Changing Models of Health and Social Care - www.audit-scotland.gov.uk/report/changing-models-of-health-and-social-care
- Audit Scotland report on Health and Social Care Integration (includes a supplement on performance indicators) - www.audit-scotland.gov.uk/report/health-and-social-care-integration

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