

***Integration Joint Board***

**Date of Meeting: 25 November 2020**

**Title of Report: Directions from Integration Authorities to Health Boards and Local Authorities**

**Presented by: Douglas Hendry, IJB Standards Officer**

**The Integration Joint Board is asked to:**

- Note the content of the new Statutory Guidance with regard to directions
- Approve the proposed improvement actions summarised at section 3.3.1 of the report; and
- Agree that Officers now put in place the necessary arrangements to implement the proposed changes.

**1. EXECUTIVE SUMMARY**

- 1.1 Following the publication of new statutory guidance in January 2020 from the Scottish Government entitled ‘Health and Social Care Integration, Statutory Guidance, Directions from Integration Authorities to Health Boards and Local Authorities’ (attached at Appendix 1), a review of the current arrangements within the Argyll and Bute HSCP with regard to the use of directions has been undertaken.
- 1.2 Members of the IJB are asked to consider and approve the actions arising from this review.

**2. INTRODUCTION**

- 2.1 Officers from the Council and the HSCP have reviewed the current operational arrangements with regard to directions and, having taken account of the legislative requirements and the new statutory guidance, propose a number of improvement actions to ensure good practice and compliance.

**3. DETAIL OF REPORT**

3.1 Context

- 3.1.1 The Public Bodies (Joint Working) (Scotland) Act 2014 (the Act) places a duty on Integration Authorities to develop a strategic plan/strategic commissioning plan, for integrated functions and budgets under their control.

- 3.1.2 Integration Authorities require a mechanism to action their strategic plans and this is laid out in sections 26 to 28 of the Act (see detail at Appendix 2). This mechanism takes the form of binding directions from the Integration Authority to one or both of the Health Board and Local Authority. Directions are also the means by which a record is maintained of which body decided what and with what advice, which body is responsible for what, and which body should be audited for what, whether in financial or decision making terms.
- 3.1.3 In the case of an Integration Joint Board (IJB), a direction must be given in respect of every function that has been delegated to the IJB. A direction must set out how each integrated function is to be exercised, and identify the budget associated with that. Directions are the means by which an IJB tells the Health Board and Local Authority what is to be delivered using the integrated budget and for the IJB to improve the quality and sustainability of care, as outlined in its strategic commissioning plan.
- 3.1.4 The Scottish Government had previously published in March 2016 a 'Good Practice Note' in respect of directions from Integration Authorities to Health Boards and Local Authorities to provide guidance on implementing the legislative duties within the 2014 Act.
- 3.1.5 Following a review by the Ministerial Strategic Group for Health and Community Care in respect of progress with integration across Scotland, a number of proposals were put forward with a view to increasing the pace and effectiveness of integration. One of these proposals was that new statutory guidance would be published (January 2020) to support improved practice in issuing and implementing directions. This new statutory guidance supersedes the previous guidance issued in 2016, and emphasises that directions must be recognised as a key means of clarifying responsibilities and accountabilities between statutory partners, and for ensuring delivery in line with decisions.

## 3.2 Review of current arrangements / new statutory guidance

- 3.2.1 The current Argyll and Bute Scheme of Integration states the following in respect of directions:-

Section 8.2.15 *The annual direction from the IJB to the Council and NHS Highland will take the form of a letter from the Chief Officer referring to the arrangements for delivery set out in the Strategic Plan and will include information on:*

- *The delegated function(s) that are being directed*
- *The outcomes and activity levels to be delivered for those delegated functions*
- *The amount and method of determining the payment to carry out the delegated functions*

Section 8.2.16 *Once issued, these can be amended or varied by a subsequent direction by the IJB.*

- 3.2.2 A review of directions issued since the Argyll and Bute HSCP was formed has been undertaken and it would appear that directions were issued by letter from the Chief Officer of the IJB on 23 December 2016 and 21 April 2020, to both the Council and NHS Highland, as well as a direction to partners to recruit additional HR resource. The use of directions is not optional for IJBs, Health Boards or Local Authorities, it is required by law. Based on the current practice in Argyll and Bute, there is a need to change and improve, ensuring that directions are issued at the appropriate times, for example following any decisions that are made at the IJB which will impact on delivery partners such as service change and service re-design.
- 3.2.3 During the last year, the reporting template for the IJB has been updated to incorporate a specific section on directions which requires the author to decide and record if the report requires a direction to be issued to the Local Authority, NHS Highland Health Board, or both, or that no direction is required (attached at Appendix 3). To date, three directions have been issued using this reporting mechanism. The new statutory guidance from the Scottish Government recommends that this approach should be adopted as standard practice across IJBs so it is positive that this has already been implemented in Argyll and Bute. It would be beneficial, however, to put in place guidance for Officers who are required to submit reports to the IJB, to ensure there is an understanding of when directions are required.
- 3.2.4 The Scottish Government have reported that it has been the practice of most IJBs to issue generic directions to delivery partners at the point of agreeing their budgets for the following financial year. However, it is not possible for IJBs to make all decisions about all service change at this juncture, therefore it is recommended that the issuing of directions should be taking place at any time throughout the year, as well as the start of the financial year. At present, this is not happening in Argyll and Bute, but the consistent application of the reporting mechanism detailed in section 3.2.3 will provide an initial prompt.
- 3.2.5 A further recommendation arising from the new statutory guidance, which will assist Officers/IJBs in determining whether a direction is necessary, is that IJBs should develop a directions policy, based on the content of the new guidance. The following areas are suggested for consideration when deciding if a direction is required/what it might include:-
- Scope and scale of the function
  - Finance involved
  - Scale and nature of change
  - Those impacted by the change
    - Patients
    - People who use services
    - Carers
    - Local communities
    - Staff
    - Others
  - Timescale for delivery

- 3.2.6 In respect of the form and content of directions, Section 27 of the Act provides they must include detailed information on the financial resources that are available for carrying out the functions that are the subject of the directions, including the allocated budget and how that budget is to be used. The full text of Section 27 should be referred to for further detail, which is contained within Appendix 2.
- 3.2.7 The Act further provided that directions must be in writing. The Guidance states they should be sufficiently detailed to ensure the intention of the IJB is adequately captured and effectively communicated. The Guidance states directions should include information on the required delivery of the function, for example, changing the model of care, as well as detailed information on the financial resources that are available for carrying out the functions that are the subject of the directions, including the allocated budget and how that budget is to be used.
- 3.2.8 The content of a direction should be informed by the content of a report on the function(s) submitted to and approved by the IJB. For example, where an IJB discusses and approves a report that makes changes to arrangements for the provision of a particular service, the direction would draw on the reports content. It is recommended that the direction should be contained in the same report, using a standard format, in order that it can be approved by the IJB at the same time as the report and its recommendations are approved.
- 3.2.9 The new statutory guidance recommends that directions should be issued as soon as is practicable following their approval by the IJB. It is recommended that this should be a maximum of, say, 14 days after the decision by the IJB.
- 3.2.10 Directions should remain in place until such time as they are varied, revoked, or suspended by a later direction in respect of the same functions. It is recommended that a log of all directions should be maintained, ensuring that it is checked for accuracy and kept up to date. This log should include, as a minimum, the function(s) covered, any identifier (such as log number), date of issue, identify to which delivery partner(s) issued, any delivery issues, and the total resource committed. The log should be regularly monitored and reviewed by the IJB and used as part of performance management processes.
- 3.2.11 Directions that are issued at the start of the financial year should be reviewed and if necessary revised during the year in response to ongoing developments, including as a consequence of decisions in year about service change by the IJB, or for example, should an overspend be forecast in either of the operational budgets for health or social care services delivered by the Health Board and Local Authority and corrective actions proposed which require a direction.

### 3.3 Summary of proposed actions

- 3.3.1 As a consequence of the new statutory guidance, the following actions are proposed for implementation to ensure consistent practice across IJBs with respect to directions:-

- i. Full adoption of the IJB reporting template that has been in operation for the last year;
- ii. Development of a directions policy to assist IJBs/Officers in determining when directions are required;
- iii. Ensure that any directions issued include detail on the required delivery of the function and financial resources;
- iv. The content of directions should be informed by the content of a report on function(s) approved by the IJB and should be contained in the same report, using a standard format;
- v. Directions should be issued as soon as practicable following approval by the IJB, usually by the IJB Chief Officer to the Chief Executive of either the Health Board or the Local Authority, or both. Each in their role as accountable officers to the relevant statutory body.
- vi. A log of all directions issued, revised, revoked, and completed should be maintained. This log should be periodically reviewed by the IJB and used as part of performance management processes, including audit and scrutiny.

#### **4. RELEVANT DATA AND INDICATORS**

Compliance with the Public Bodies (Joint Working) (Scotland) Act 2014 – Sections 26 – 28

#### **5. CONTRIBUTION TO STRATEGIC PRIORITIES**

Binding directions are the mechanism by which Integration Authorities action their strategic plans for integrated services and budgets.

#### **6. GOVERNANCE IMPLICATIONS**

##### **6.1 Financial Impact**

Improved governance arrangements and accountability, ensuring effective delivery of integration.

##### **6.1 Staff Governance**

n/a

##### **6.2 Clinical Governance**

n/a

#### **7. PROFESSIONAL ADVISORY**

Report was prepared in consultation with senior management across the Council and HSCP.

#### **8. EQUALITY & DIVERSITY IMPLICATIONS**

n/a

## 9. GENERAL DATA PROTECTION PRINCIPLES COMPLIANCE

Compliant

## 10. RISK ASSESSMENT

Non - compliance with the statutory guidance and the Public Bodies (Joint Working) (Scotland) Act 2014 will reduced clarity and transparency in terms of decision making and budget control.

## 11. PUBLIC & USER INVOLVEMENT & ENGAGEMENT

n/a

## 12. CONCLUSIONS

- 12.1 A review of progress with integration of health and social care has been undertaken by the Ministerial Strategic Group for Health and Community Care, which has resulted in a number of proposals being put forward to increase the pace and effectiveness of integration, including the publication of new statutory guidance “Directions from Integration Authorities to Health Boards and Local Authorities”. As a consequence of this, a review of the current arrangements in place within Argyll and Bute HSCP with regard to directions has been undertaken, and a number of improvement actions proposed to ensure compliance with the new guidance.

## 13. DIRECTIONS

Directions required to Council, NHS Board or both.	Directions to:	tick
	No Directions required	x
	Argyll & Bute Council	
	NHS Highland Health Board	
Argyll & Bute Council and NHS Highland Health Board		

## 14. APPENDICES

- Appendix 1 – Statutory Guidance – ‘Directions from Integration Authorities to Health Boards and Local Authorities’
- Appendix 2 – Public Bodies (Joint Working) (Scotland) Act 2014 – Sections 26 – 28
- Appendix 3 – IJB Reporting Template

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