



## Briefing for the Public Petitions Committee

**Petition Number:** [PE 01628](#)

**Main Petitioner:** R Maxell Barr on behalf of Struan Lodge Development Group and Dunoon Community Council

**Subject: Consultation on service delivery for the elderly or vulnerable**

Calls on the Parliament to urge the Scottish Government to ensure that all changes to service delivery for elderly and/or vulnerable groups by Integrated Joint Boards responsible for health and social care are underpinned by the principles of openness and accountability and are therefore subject to detailed public consultation and full democratic scrutiny before final decisions are made and those decisions implemented by the Boards

### Background

#### Struan Lodge Care Home

Struan Lodge is one of six care homes owned and run by [Argyll and Bute Council](#), and has 12 single rooms for older people. The petitioner is part of a group, the Struan Lodge Development Group that was established in 2013 when the closure of the home was first mooted by the local authority. In [February 2013 the Care Inspectorate rated the service](#) at Struan Lodge in all categories as 'very good' or 'excellent' following an 'unannounced' inspection.

The integration of health and social care means that the management of services such as those at Struan Lodge have become the responsibility of the local health and social care partnership, an integrated public body which is jointly accountable to Highland Health Board and Argyll and Bute Council (and vice versa)<sup>1</sup>. Under integration, smaller planning units are organised as 'localities'<sup>2</sup>. In this instance, decisions about local services are taken at locality level by Cowan Locality Planning Group.

<sup>1</sup> [Audit Scotland Report, p 14 Exhibit 4](#)

<sup>2</sup> Locality Planning Groups. The Public Bodies (Joint Working)(Scotland)Act required each integration authority – in this case Highland Health Board – to establish 'localities' to provide an organisational mechanism for local leadership and service planning in the context of health and social care integration. The intention is that localities have real influence on how resources are spent in their area (source: SPICe Briefing 16/70 *Integration of Health and Social Care*)

One of the main aims of 'integration' is to shift the focus of care away from acute hospital care, to reduce unscheduled admissions to hospital (which occur, for example, as a result of an elderly person falling in their home), and concentrating instead on ensuring that people remain as well and as able as possible in their own homes for as long as possible.

[Argyll and Bute Community Planning Partnership pages](#) provide more information on how services are organised locally.

On the Council's website they state that:

It is the policy of Argyll and Bute Council and NHS Highland that as far as possible older people will be supported to remain in their own home as independently as possible for as long as possible. It is recognised that there will also be a need for some people to be looked after in a residential care home and these places will be allocated to people assessed as having the highest levels of need.

In the Minutes of Cowal Locality Planning Group, of July and August 2016, Struan Lodge was discussed:



CLP-July-2016-A.doc



CLP-Aug-2016-A.doc



CLP-Sept-16-A.doc

The proposal, given financial constraints is to retain Struan Lodge, but not as a residential home, but as a 'reablement'<sup>3</sup> resource. The Cowal Locality Planning Group were in the process of ascertaining if it would constitute a major service change (see below), and stressed the importance of consulting with staff, residents and the community.

The matter was further discussed at the September CLP meeting:

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<sup>3</sup> Reablement is the process of your local council providing personal care, such as help with daily living activities and other practical tasks. It usually lasts for up to 6 weeks, and helps give people the confidence and skills to carry out these activities for themselves, so they can continue to live at home as independently as possible.

It tends to be provided to people who have just been discharged from hospital or are entering the care system following a crisis.

It can also help people leave hospital as soon as they're able to, as they'll have support when they return home.

Services are often delivered by in-house council care teams, rather than the independent sector. The team can include:

- trained care workers
- occupational therapists
- housing support workers
- other health professionals

(source: [care information scotland](#))

Cllr Breslin – Voiced his dismay at the Struan Lodge situation he feels strongly that the wrong decision has been made, and that there is lack of evidence to support the decision. Cllr Breslin is concerned about capacity for residential care in the community over the next 20 years.

Cllr Breslin opposes the Struan Lodge decision.

Viv- Respects Cllr Breslin's position but if we don't look at change we will not have enough capacity within the community. Currently a residential bed at Struan Lodge cost £4,000 per week; a private sector bed is £800 per week. We need to decide on priorities. Is this funding equitable? We need to consider these questions.

The group discussed public perception. Is there an issue around perception of quality of care provided by the independent sector, do members of the public think it won't be as good as local authority care? Anne advised that if helpful, we can put care inspectorate grades out to help appease any concerns around quality. This was welcomed by the group.

## **How are integrated joint boards expected to consult with communities?**

Following the introduction of the integration of health and social care through the [Public Bodies \(Joint Working\) \(Scotland\) Act](#), Argyll and Bute Council are one of the local authorities associated with NHS Highland, and have established an integrated joint board (IJB), whereby health and social care functions formerly carried out by the health board and local authority are now directed via the IJB. Further information on the difference between the different models for integration ('lead body', as adopted by Highland Health Board and Highland Council, and 'body corporate', as adopted by all other boards and authorities), and about the integration of health and social care more generally can be found in the [SPICe briefing](#) on the subject and Audit Scotland's 2015 Report, [Health and Social Care Integration](#).

[Argyll & Bute IJB](#) has a legislative framework set out in the 2014 Public Bodies (Joint Working) Act in which it operates that requires it to engage and consult with a range of stakeholders. This is different from the direction and guidance given to NHS Boards in CEL 4 (2010). However, Argyll and Bute IJB are in a somewhat unique position among all the other IJBs in that the health board it is connected with is following the 'lead agency' model. It is not clear how or if this material difference will affect how this IJB/health board relationship operates.

Under [integration guidance](#) there is specific [guidance relating to 'localities'](#).

'To ensure the quality of localities' input to strategic planning, they must function with the direct involvement and leadership of:

- health and social care professionals who are involved in the care of people who use services.
- representatives of the housing sector.
- representatives of the third and independent sectors.
- carers' and patients' representatives.
- people managing services in the area of the Integration Authority.'

The Localities Guidance also states that:

'[Section 53 of the Act](#) states that Local Authorities, Health Boards and Integration Authorities must pay regard to any guidance, such as this, issued by Scottish Ministers in relation to the Act.'

There are also higher level strategic [principles associated with the delivery of integration](#) which should be considered in 'strategic commissioning plans':

'The main purpose of services which are provided to meet integration functions is to improve the wellbeing of service-users,

That, in so far as consistent with the main purpose, those services should be

provided in a way which, so far as possible:

- is integrated from the point of view of service-users
- takes account of the particular needs of different service-users
- takes account of the particular needs of service-users in different parts of the area in which the service is being provided
- takes account of the particular characteristics and circumstances of different service-users
- respects the rights of service-users
- takes account of the dignity of service-users
- takes account of the participation by service-users in the community in which service-users live
- protects and improves the safety of service-users
- improves the quality of the service
- 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)
- best anticipates needs and prevents them arising
- makes the best use of the available facilities, people and other resources'

Integration authorities must reconcile all of these principles when it is designing or redesigning services. It could be argued that for such a dramatic shift in health and social care, some radical and controversial changes will have to be made to how services operate.

A growing number of integration authorities are producing Communication, Participation and Engagement Strategies, such as [Dundee Health and Social Care Partnership](#), [East Ayrshire](#), [Glasgow City](#) and [Shetland IJB](#).

Argyll and Bute IJB do not yet appear to have published a participation and engagement strategy. However, they are [running a series of consultation events](#) and have established local 'Communication and Engagement' Groups.

## **National Standards for Community Engagement**

The National Standards for Community Engagement were first launched in 2005. The ten Standards set out 'best practice' principles for the way that government agencies, councils, health boards, police and other public bodies engage with communities. They are not compulsory, but are promoted as good practice. The [new revised National Standards for Community Engagement](#) were launched on 29 September 2016. They have been simplified from ten to seven Standards, reflecting the main elements of good community engagement - Inclusion, Support, Planning, Working Together, Methods, Communication and Impact. More information is available on the [VOiCE \(Visioning Outcomes in Community Engagement\)](#) website.

## **Service changes and public involvement in NHS services**

Accountability is very different for health boards and local authorities, which will potentially make the issue of changes to services in health and social care under integration far more complex. Health boards are accountable to the Scottish Ministers, and ultimately the Scottish Parliament, whereas local authorities are accountable to their local electorates, giving them a local mandate to make decisions about local services. As detailed below, a range of legislation has sought to improve public involvement in health board decision-making.

Health boards are required to follow the advice and guidance given via the Chief Executive Letter, [CEL 4 \(2010\)](#). This sets out how boards should involve and consult with the public and stakeholders when health services are being reviewed.

## **NHS service change and history of public involvement and consultation**

The [Scottish Health Council \(SHC\)](#) is the key body in supporting boards when they are considering changes to services. They do this by advising on the public participation and involvement process that are necessary for different levels of service change. One of the issues is the definition of service change itself. For example, is it always appropriate for a patient or a member of the public be involved in a fundamentally clinical decision about a service, or one which is about how a service is staffed, or where a service is located if, for example its current premises are not deemed fit for purpose? It is not an exact science.

The Scottish Health Council was established by the Scottish Executive in April 2005 to promote Patient Focus and Public Involvement in the NHS in Scotland. The Scottish Health Council is a committee of [Healthcare Improvement Scotland](#) but has a distinct identity. The [Committee](#) is responsible for agreeing the overall strategic direction of the organisation. There is a local office of the SHC in each of the 14 health board areas.

Key legislation over the past fifteen years or so has been leading towards a more mutually configured health service that is more responsive to communities and patients' needs, and more directive in the requirement to involve the public and patients. However, this has also been in the context of increasing centralisation and specialisation of services (ie removing locally-based services to urban centres) and concentrating certain services in specific locations (eg. The National Waiting Times Centre - The Golden Jubilee Hospital - where many elective procedures are carried out, and to which many health boards refer patients for such things as hip or knee replacements for example.

Changes to services are also happening in the context of changing demographics – older population – growing demand, and increasingly stretched resources.

The SHC makes reference to the relevant policy and legislation on its website:

NHS Boards are required to involve people in designing, developing and delivering the health care services they provide for them. NHS Boards' responsibilities in this area were initially set out in the document [Patient Focus and Public Involvement \(2001\)](#). The following policy, legislation and guidance has been issued since:

## **NHS Reform (Scotland) Act 2004**

To reflect the importance of their Patient Focus and Public Involvement agenda, duties of public involvement and equal opportunities were placed on NHS Boards in the [NHS Reform \(Scotland\) Act 2004](#). This Act also required NHS Boards to establish Community Health Partnerships.

Each Community Health Partnership is responsible for developing a [Public Partnership Forum](#) as one important means by which it can maintain an effective and formal dialogue with its local community.

## **Better Health, Better Care**

The Scottish Government's [Better Health, Better Care: Action Plan](#) (2007) set out a vision for the NHS based on a theme of mutuality that sees the Scottish people and the staff of the NHS as partners, or

co-owners in the NHS, giving people a greater say in the services they use.

## **Informing, Engaging and Consulting**

To fulfil their responsibilities for public involvement, NHS Boards should routinely communicate with and involve the communities they serve. In February 2010 the Scottish Government published updated guidance on [Informing, engaging and consulting people in developing health and community care services](#), which is supplemented by [guidance](#) produced by the Scottish Health Council. Boards should also follow the principles and practice endorsed in the [National Standards for Community Engagement](#).

## **NHSScotland Healthcare Quality Strategy**

Launched in May 2010, the [NHSScotland Quality Strategy](#) states that the health service in Scotland will put people at the heart of everything it does. It commits to ensuring that the way in which people receive healthcare is as important as how quickly they receive it. Through the implementation of the strategy, people will be encouraged to be partners in their own care and can expect to experience improvements reflecting the things they have said they want and need from their health services:

- Those working in the health service will listen to peoples' views, gather information about their perceptions and personal experience of care and use that information to further improve care.
- Building on the values of the people working in and with NHSScotland and their commitment to providing the best possible care and advice compassionately and reliably, by making the right thing easier to do for every person, every time.

## **Patient Rights (Scotland) Act**

The [Patient Rights \(Scotland\) Act 2011](#) gained Royal Assent in March 2011 and aims to improve patients' experiences of using health services and to support people to become more involved in their health and healthcare. The provisions of the Act include:

- a duty to publish a [Charter of Patient Rights and Responsibilities](#)
- a set of principles for healthcare provision covering patient focus, quality care and treatment, patient participation, and communication
- a 12-week treatment time guarantee

- a right to give feedback or comments, or raise concerns or complaints; and
- the establishment of a [Patient Advice and Support Service](#).

## **Public Bodies (Joint Working) (Scotland) Act**

The [Public Bodies \(Joint Working\) \(Scotland\) Act](#) gained Royal Assent in April 2014. It will put in place:

- Nationally agreed outcomes, which will apply across health and social care, and for which NHS Boards and Local Authorities will be held jointly accountable
- A requirement on NHS Boards and Local Authorities to integrate health and social care budgets
- A requirement on Partnerships to strengthen the role of clinicians and care professionals, along with the third and independent sectors, in the planning and delivery of services.

## **Community Empowerment (Scotland) Act**

The [Community Empowerment \(Scotland\) Act](#) gained Royal Assent in July 2015. It will help to empower community bodies through the ownership of land and buildings, and by strengthening their voices in the decisions that matter to them. It will also improve outcomes for communities by improving the process of community planning, ensuring that local service providers work together even more closely with communities to meet the needs of the people who use them. There are a number of pieces of work ongoing which underpin the vision of a mutual NHS and will help to improve patient focus and public involvement in Scotland. These include strengthening the role of [Public Partnership Forums](#) and promoting the [Participation Standard](#), which is used to collect systematic, comparable information on good practice that can be used to inform future development.

The SHC only provide guidance to Boards and there are no set, definitive criteria that allows health boards to decide if service change is major or not.

An extract from the CLP September Minutes (see above) demonstrates how the SHC will work with the Locality Planning Group in the case of Struan Lodge:

A meeting has been arranged for 12<sup>th</sup> September to distinguish whether changes suggested are “service change” or “major service change”. The Scottish Health Council will be in attendance to help and advise with completion of the required template.

If not deemed “major service change”, there will be consultations with the public on what the service should look like but if decided it is “major service change” this is a more complicated matter which the Scottish Government will be involved with.

An EQIA (Equality Impact Assessment) will also be required. Purpose of this assessment is to look at any detriment to protected groups, is there discrimination or unfair advantages etc. The assessment is a requirement by law.

Families, carers and staff have all been met with. Next step with staff is consultation which is a council statutory requirement.

It can be seen that the Group are following both health board and local authority consultation protocols.

The Scottish Health Council have commissioned a [number of reports about public involvement in health and social care](#) in the context of integration. The documents include [a summary of findings](#) covering current experiences, future possibilities for involvement, the main challenges for representative and transparent involvement and key issues for debate in the context of integration of health and social care

### **Scottish Government Action**

In the New Year the Scottish Government will be working with the Scottish Health Council to explore the support role that they can play going forward in relation to Integration.

### **Scottish Parliament Action**

Conveners’ group meeting with the First Minister, 16 November 2016  
[Question on service change from Johann Lamont](#)

[Question S5O-00483](#): Maurice Corry, West Scotland, Scottish Conservative and Unionist Party, Date Lodged: 07/12/2016

‘To ask the Scottish Government how it will ensure the continued viability of rural care homes.’ [Question taken in Chamber 15/12/2016](#)

[Question S5W-04877: Maurice Corry, West Scotland, Scottish Conservative and Unionist Party, Date Lodged: 21/11/2016](#)

To ask the Scottish Government how much it has spent in the West Scotland parliamentary region on the provision of residential care homes in each year since 2007, broken down by local authority area and whether it was for private or public sector homes.

**Answered by Aileen Campbell (07/12/2016):**

The statutory responsibility for delivering or commissioning services at a local level, including care home provision, lies with NHS boards, local authorities and integrated health & social care partnerships. It is for individual councils to decide how their funding is allocated ensuring that local needs and statutory obligations have been fulfilled.

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22 December 2016

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