

Members' Library Service Request Form

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Originator	Angela Leitch
Originator's Ref (if any)	
Document Title	Response to Scottish Government Consultations on Draft Regulations and Orders Relating to Public Bodies (Joint Working)(Scotland) Act 2014

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East Lothian Council

Additional information:

This constitutes the Council's response to the Scottish Government's consultations on regulations relating to Health and Social Care Integration, as discussed at Council on 24 June 2014.

Authorised By	Angela Leitch
Designation	Chief Executive
Date	01/08/14

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**PROPOSALS FOR PRESCRIBED INFORMATION TO BE INCLUDED
IN THE INTEGRATION SCHEME 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

East Lothian Council

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

Surname

Leitch

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Angela

2. Postal Address

John Muir House

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chiefexec@eastlothian.gov.uk

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

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Please tick as appropriate

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Please tick as appropriate

Yes

No

4. Additional information – I am responding as:

Please tick as appropriate

1. NHS Health Board	
2. Other NHS Organisation	
3. General Practitioner	
4. Local Authority	X
5. Other statutory organisation	
6. Third sector care provider organisation	
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PROPOSALS FOR PRESCRIBED INFORMATION TO BE INCLUDED IN THE INTEGRATION SCHEME 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 Integration Scheme?

Yes

No

2. If no, please explain why:

It is not clear why the only professionals who must be included in the IJB are Chief Social Work Officer and Clinical Director/Associate Medical Director. This ignores the role of the large NHS workforces in nursing and Allied Health Professionals and the contribution that a Chief Nurse or Allied Health Professional lead can make to governance decisions.

Clinical and Care Governance: It is not clear if there will be any guidance on the remit of clinical and care governance as it applies to the IJBs' functions compared to the continuing responsibilities of Councils and Health Boards. This can also be extended to Risk Management responsibilities of the IJB.

The prescribed matters should include reference to the role of the Section 95 officer to the IJB and the accountability of that role such as included in the recent guidance on the Chief Financial Officer published by IRAG.

3. Are there any additional matters that should be included within the regulations?

Yes

No

4. If yes, please suggest:

Role of Chief Nurse on IJB

Role of an IJB in civil contingencies and emergency planning

Role of the Chief Finance Officer on IJB

It may be helpful for the IJB to have the ability to vary certain areas of the Scheme without the requirement to seek Ministerial approval, where the variation is within key parameters but would not result in a material change to the Scheme.

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

It would be helpful if there was some clarity on the accountability of the IJB and the expected role of the Scottish Ministers against the background of existing community planning arrangements and single outcome agreements.

PROPOSALS FOR PRESCRIBED FUNCTIONS THAT MUST BE DELEGATED BY LOCAL AUTHORITIES RELATING TO THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

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Please tick as appropriate

Yes

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PROPOSALS FOR PRESCRIBED FUNCTIONS THAT MUST BE DELEGATED BY LOCAL AUTHORITIES RELATING TO THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

CONSULTATION QUESTIONS

1. Do you agree with the list of Local Authority functions included here which must be delegated?

Yes

No

2. If no, please explain why:

The age definition of “at least 18 years old” presents issues, although of course it is understood that a cut-off has to be chosen. In East Lothian financial responsibility for complex cases passes to Adult Wellbeing at 16, unless the young person is ‘looked after’ in which case the transition can happen up to their 19th birthday (soon to be 21st under the Children and Young People’s Act 2014). Children’s Wellbeing may keep case responsibility for young people longer, but usually it is allocated to Adult Wellbeing 6 months or a year prior to the individual leaving school - nearer 17 or 18 years old.

The age definition also impacts on the provision of housing. Most housing related services provided are available to those over 18, or in case of major adaptations all ages.

It would be helpful if the guidance could make it clear that these issues are recognised and that partnerships are expected to be flexible in the application of the definition.

The list does not mention home care. It may be implied in some of the defined functions e.g. Housing Support, but care at home is such a significant function and expenditure that it should be specified separately.

The definition of housing support is not straightforward and in East Lothian Council is a shared responsibility between Housing and Social Care. It would be helpful if the regulations recognised this and indicated that partnerships are expected to be flexible in the application of the definition. Also, housing support services and aids and adaptations are distinct and separate services.

[continues overleaf]

The list does not mention criminal justice social work services. Given:

- the likelihood that councils will remain responsible for these services;
- the crucial links with mental health, addictions, adult protection and domestic violence services;
- the risk of criminal justice social work being isolated if all the other functions are delegated; -

it is recommended that Councils are given the option to add criminal justice social work to the list of services delegated to the IJB.

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

No.

**PROPOSALS FOR REGULATIONS PRESCRIBING FUNCTIONS
THAT MAY OR THAT MUST BE DELEGATED BY A HEALTH BOARD
UNDER THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT
2014**

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Yes

No

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PROPOSALS FOR REGULATIONS PRESCRIBING FUNCTIONS THAT MAY OR THAT MUST BE DELEGATED BY A HEALTH BOARD UNDER THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

CONSULTATION QUESTIONS

1. Do you agree with the list of functions (Schedule 1) that may be delegated?

Yes

No

If no, please explain why:

It is welcomed that General Medical Services are on the MUST list but it is not accepted that other Independent Contractors functions are not (e.g. dentists, pharmacists etc). These are vital primary care services to which the local population requires access and which are core in maintaining the health of the population. They also work closely with many of the prescribed NHS and Social Care functions. It is recognised that the budgets are not easily disaggregated to partnership level, but that does not prevent the IJBs in multiple partnership Board areas having the delegated function, including these services in their strategic plans and agreeing that the NHS Board Primary Care Contractor Function will carry out the contractual and budgetary work on their behalf. If these services are not delegated these groups of independent contractors will remain disengaged from local strategic and community planning.

2. Do you agree with the list of services (Schedule 2) that must be delegated as set out in regulations?

Yes

No

If no (i.e. you do not think they include or exclude the right services for Integration Authorities), please explain why:

The list includes Health Visiting only as it applies to adult services. However Health Visiting is now primarily a children's service and so it is not practical to delegate the adult part of Health Visiting and not the children's services part. The list itself is contradictory in that it states the purpose of Health Visiting as "assessment care and treatment of children and older people" but does not include the Children's element in the delegated functions.

This position also ignores the fact that many partnerships will agree or have already agreed to include the full range of social care and NHS children's services in the partnership. It is recommended that flexibility is built into the definition to allow for these local variations.

The list does not mention School Nursing. It may be that this is implied in "Health Visiting", but it is a distinct service. School nursing should be listed separately. Also given the points about Health Visiting above it should be in the list of MUST functions with some flexibility built into the definition to allow for local variations. Partnerships should indicate how School Nursing will work closely with Education services.

3. Are you clear what is meant by the services listed in Schedule 2 (as described in Annex A)?

Yes

No

If not, we would welcome your feedback below to ensure we can provide the best description possible of these services, where they may not be applied consistently in practice.

See comments above in relation to health visiting.

"Care of older people" should be clear that this relates to inpatient care.

"Unplanned inpatients": it should be made clear that this definition is not intended to exclude surgical care e.g. treatment for fractured neck of femur. (This has been subsequently clarified in the joint letter from COSLA and the Cabinet Secretary and this should be included in the final regulations.)

4. Are there any further comments you would like to offer on these draft regulations?

In general the draft regulations seem to have arbitrary cut-offs built in. It is appreciated that precise definitions are very difficult, especially in universal services. However, the draft as it stands may prevent some partnerships achieving agreed local arrangements. It is recommended that some flexibility is built in to the final version to allow for variation.

East Lothian Council welcomes the intention to include hospital functions and budgets as set out in the draft regulations and as clarified in the joint COSLA/Cabinet Secretary letter.

ANNEX 4(C)
**PROPOSALS FOR NATIONAL HEALTH AND WELLBEING
OUTCOMES RELATING TO THE PUBLIC BODIES (JOINT
WORKING) (SCOTLAND) ACT 2014**



RESPONDENT INFORMATION FORM

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Please tick as appropriate

Yes

No

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ANNEX 4(D)
**PROPOSALS FOR NATIONAL HEALTH AND WELLBEING
OUTCOMES RELATING TO THE PUBLIC BODIES (JOINT
WORKING) (SCOTLAND) ACT 2014**



CONSULTATION QUESTIONS

1. Do you agree with the prescribed National Health and Wellbeing Outcomes?

Yes

No

If no, please explain why:

It is appreciated that there has been comprehensive work in developing the outcomes, but for some there is no national data collected e.g. on how “health and social care services contribute to reducing health inequalities” and how “people who use health and social care services are safe and protected from harm”. There is a risk that these outcomes lead to additional burdens of data collection in addition to data already collected for reporting on other outcomes such as the priorities within the Single Outcome Agreement and HEAT targets.

There is a need for further clarity on the accountability and direction of the IJB within the current structure of existing community planning arrangements. Many of the current strategic plans are developed jointly and show targets and success measures which arguably should inform the strategic direction of the IJB.

The regulations must be clear that the outcomes are aspirational in purpose and that they do not create an enforceable individual ground of action.

2. Do you agree that they cover the right areas?

Yes

No

3. If not, which additional areas do you think should be covered by the Outcomes?

See above, it would be more effective if there were fewer outcomes that reduced the burden of measurement and which consumed less resource in data collection and reporting.

Our earlier response [Annex 3D] expressed the view that the arrangements should be more flexible with the ability to include children’s services of health visiting within IJB, in which case there are existing indicators constituted in SHANARRI.

4. Do you think that the National Health and Wellbeing Outcomes will be understood by users of services, as well as those planning and delivering them?

Yes

No

5. If not , why not?

Whilst they are not difficult to understand in principle and are important things to achieve, they are difficult to define and measure and thus it would be difficult to demonstrate success (or failure).

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

No.

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Yes

No

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PROPOSALS FOR INTERPRETATION OF WHAT IS MEANT BY THE TERMS HEALTH AND SOCIAL CARE PROFESSIONALS RELATING TO THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

CONSULTATION QUESTIONS

1. Do you agree that the groups listed in section 2 of the draft regulations prescribe what 'health professional' means for the purposes of the Act?

Yes

No

2. If you answered 'no', please explain why:

Some further clarity is needed on the reference to healthcare workers. There are some Council-employed social care workers who are registered with the Health and Care Professions Council.

3. Do you agree that identifying Social Workers and Social Service Workers through registration with the Scottish Social Services Commission is the most appropriate way of defining Social Care Professionals, for the purposes of the Act?

Yes

No

4. If you answered 'no', what other methods of identifying professional would you see as appropriate?

n/a

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

The list of prescribed healthcare professionals includes dentists, optometrists and pharmacists but the primary care contractor elements of these professionals' services are excluded from the list of delegated functions. This is not consistent. As indicated in 3(D) we believe that these functions should be on the MUST list of delegated functions.

Adult and Children services employ staff such as community care assistants and Family Support Workers who are not registered but are an important part of the workforce.

**PRESCRIBED FUNCTIONS CONFERRED ON A LOCAL AUTHORITY
OFFICER RELATING TO THE PUBLIC BODIES (JOINT WORKING)
(SCOTLAND) ACT 2014**

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ANNEX 6(D)

**PRESCRIBED FUNCTIONS CONFERRED ON A LOCAL AUTHORITY OFFICER
RELATING TO THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT
2014**

CONSULTATION QUESTIONS

1. Do you believe that the draft Regulations will effectively achieve the policy intention of the Act?

Yes

No

2. If not, which part of the draft Regulations do you believe may not effectively achieve the policy intention of the Act, and why?

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

It is acknowledged that additional regulations may be required through the course of the implementation and delivery of joint commissioning services.

ANNEX 1(C)



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

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ANNEX 1(D)

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?

- Housing Professionals including commercial providers of specialist housing;
- private landlords;
- tenants and residents organisations.

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

Does the definition of non-commercial providers of social housing include both Local Authorities and Housing Associations?

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

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/

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

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

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

Please tick as appropriate

Yes **No**

(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

4. Additional information – I am responding as:

Please tick as appropriate

1. NHS Health Board	
2. Other NHS Organisation	
3. General Practitioner	
4. Local Authority	X
5. Other statutory organisation	
6. Third sector care provider organisation	
7. Independent / private care provider organisation	
8. Representative organisation for professional group	
9. Representative organisation for staff group e.g. trade union	
10. Education / academic group	
11. Representative group for patients / care users	
12. Representative group for carers	
13. Patient / service user	
14. Carer	
15. Other – please specify	

ANNEX 2(D)

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:

The commitment to work closely with unions is welcomed. However the proposal to include a staff side representative could cause difficulties. The different ways of working with unions between Councils and the NHS will mean that it is difficult to agree which sector's union holds the non-voting seat. It may be better, in order to resolve this, that partnerships are required to demonstrate how they will maintain engagement with unions through existing mechanisms such as Joint Consultative Groups.

Section 95 Officer role will require to provide advice to the IJB and it is recommended that the role should be added to the minimum list of non-voting members.

There should be some consideration that the strategic housing authority should also be a non-voting member of the IHB.

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

No comment to make on this.

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

It is the understanding of East Lothian Council and NHS Lothian that the section on voting membership allows 4 voting members from each. This is the current configuration of the Shadow Joint Board in East Lothian and both wish to retain this.

It is assumed that the definition of a quorum (at least 2/3 of the voting membership from each of the Council and NHS) in the draft schedule of matters to be included in standing orders can also apply to a membership that is not divisible by 3 e.g. where each body has 4 voting members. Also, consideration should be given to whether 2/3 quorum will work in practical terms especially in areas where a health board has a number of IJBs.

It is assumed that details in areas on which the regulations are silent (such as the process for selecting the chair and vice chair, process for agreeing terms of office, process for agreeing the full non voting membership etc.) will be developed and agreed locally.

It would be helpful if there is clarity on the role of non-voting members such as the role of advisor and whether or this raises any conflict issues.

ANNEX 3(C)



ESTABLISHMENT, MEMBERSHIP AND PROCEEDINGS OF INTEGRATION JOINT MONITORING COMMITTEES ESTABLISHED UNDER 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

East Lothian Council

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

Surname

Leitch

Forename

Angela

2. Postal Address

John Muir House

Haddington

East Lothian

Postcode EH41 4NJ

Phone 01620 827222

Email

chiefexec@eastlothian.gov.uk

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

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or

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

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

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

Please tick as appropriate

Yes **No**

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Please tick as appropriate

Yes

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Please tick as appropriate

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12. Representative group for carers	
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14. Carer	
15. Other – please specify	

ANNEX 3(D)

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:

No comment – East Lothian Council is committed to the IJB model

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

No comment – East Lothian Council is committed to the IJB model

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

No comment – East Lothian Council is committed to the IJB model

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

RESPONDENT INFORMATION FORM

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Yes **No**

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Please tick as appropriate

Yes

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**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?

It is felt that there is a potential conflict of interest in having private providers of healthcare and social care on the group where decisions on priorities for NHS and social care services will be made.

In addition the bulk of private healthcare is private elective care and IJBs will not have delegated functions relating to this.

Housing professionals including the strategic housing authority and the local authority function should also be included in the strategic planning group.

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

In general the list seems too long and will result in a very large group which may be unable to carry out its functions due to its size. In addition all partnership areas have existing community planning structures that engage many of the persons on the list. There is a danger of duplication and confusion.

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

RESPONDENT INFORMATION FORM

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Please tick as appropriate

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Please tick as appropriate

Yes

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**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:

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:

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?

No suggestions as to format, but it is recommended that the form should minimize effort in the collection of data, and not require the collection of additional data.

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

No.