

Leader of the Council
Councillor Joe Fagan
Ward 8 – East Kilbride Central North

Our ref: JF/CS
Date: 27 January 2026

Clare Haughey MSP
Convener - Health, Social Care and Sport Committee

By email: hscs.committee@parliament.scot

Dear Clare

Written Call for View - SSI 2025/405: The Public Bodies (Joint Working) (Integration Joint Boards) (Scotland) Amendment Order 2025

Thank you for the opportunity to submit views to the Health, Social Care and Sport Committee on the above.

This response is submitted in my capacity as the Leader of South Lanarkshire Council, reflecting the views of the Council's Administration. Ideally, the Council's Administration would have sought to engage elected members of the Council prior to making this submission. However, the manner and pace at which this instrument has been progressed have foreclosed that opportunity. During engagement on the National Care Service (Scotland) Bill, Council positions were considered and supported by elected members as a whole, and the Council's Administration would have preferred to take the same approach here. This response will therefore be shared with all councillors in South Lanarkshire as a matter of transparency.

Our Administration fully recognises the importance of people with lived experience being meaningfully involved in shaping health and social care services. Their voices must be heard, respected and influential. However, we do not support the extension of voting rights as proposed in this instrument, on the basis that it weakens democratic accountability and introduces avoidable governance risks.

I am aware that COSLA Leaders have written to Parliamentary committees requesting scrutiny of this instrument, reflecting wider concern across Local Government. The position set out here is consistent with that collective view.

Democratic accountability must remain clear

Integration Joint Boards (IJB) exist to ensure joint decision making and accountability between Local Authorities and Health Boards. The current voting arrangements reflect that statutory framework and protect the democratic mandate of elected members.

By extending voting rights beyond members appointed by constituent authorities, SSI 2025/405 dilutes local democratic accountability for social care services. Councillors are directly accountable to the electorate for decisions taken through IJBs, including decisions on the use of public funds and the discharge of statutory responsibilities. Widening voting rights to individuals without an electoral mandate blurs political accountability and risks undermining public confidence in decision making.

While the Scottish Government asserts that statutory accountability does not change, in our view the Parliament should test whether that assurance is sufficient in practice when governance arrangements are being materially altered through secondary legislation.

Participation and influence go beyond voting

We strongly support strengthening lived experience participation. However, a vote is not the sole - nor necessarily the most effective - mechanism for meaningful influence. In practice, IJB decisions are overwhelmingly shaped by consensus, challenge and engagement well before any formal vote is taken. Equality of voice depends on inclusive culture, early involvement, accessible information and proper support. Narrowly equating participation with voting risks oversimplifying a complex agenda and diverting attention from the wider reforms required to embed participative democracy throughout IJB decision making.

Proxy voting: a new provision that was not consulted on

A particularly serious concern relates to the proxy voting provisions introduced by SSI 2025/405. These provisions represent a new and material change that was not clearly set out in earlier Scottish Government proposals and was not visible when Ministers sought views prior to deciding to lay the instrument. As a result, councils and partners did not have a meaningful opportunity to consider or comment on these arrangements before the policy decision was taken.

The instrument replaces the existing proxy rules and allows newly enfranchised lived experience voting members to appoint their own "suitably experienced" proxy, who may attend and vote in their place. This raises fundamental governance questions that were not previously aired, including:

- how "suitably experienced" will be defined and assessed;
- how conflicts of interest will be managed, particularly where proxies may be associated with commissioned service providers; and
- how standards of conduct, declarations of interest, training and accountability will apply to proxies who are not appointed by a public body.

Introducing such provisions without prior visibility or consultation represents a significant weakness in the legislative process and, in our view, requires close Parliamentary scrutiny.

Conflicts of interest and public confidence

The third sector plays an invaluable role in health and social care, but often also delivers commissioned services. Extending voting rights - and proxy voting - inevitably increases the risk of real or perceived conflicts of interest in decisions relating to budgets and commissioning.

The Policy Note acknowledges that such concerns were raised during consultation. We do not consider those concerns to have been adequately resolved by the instrument as laid.

Costs, capacity and the absence of a BRIA

The Policy Note states that no Business and Regulatory Impact Assessment (BRIA) has been prepared on the basis that the instrument has no financial effects. This is difficult to reconcile with the acknowledged need for revised appointment processes, refreshed codes of conduct, training, accessibility and ongoing governance support.

We would encourage the Parliament to seek clarity on where these costs will fall and why they are not recognised as having financial implications for IJBs and Local Government.

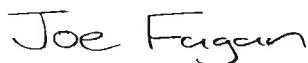
Process, pace and scrutiny

The structural reforms originally proposed as part of the National Care Service were removed from the Care Reform (Scotland) Act after failing to secure sufficient support, following extensive criticism from Local Government and other stakeholders. In that context, progressing governance changes of comparable significance through secondary legislation risks undermining the conclusions already reached through the primary legislative process.

Finally, we are concerned that a governance change of this significance - touching directly on democratic accountability - has been progressed at pace, through a negative instrument, and with limited opportunity for Parliamentary scrutiny. Taken together, this approach risks the perception that elements of National Care Service reform are being progressed "by the back door" through legislative technicalities, rather than through primary legislation with full Parliamentary debate and proper engagement with elected members locally.

We welcome the leadership shown by the Committee in having taken action to seek views on this instrument; and urge the Committee to now insist that the contents of the instrument receive both fuller Parliamentary scrutiny and adequate responses from Ministers prior to any further move to confirm under statute.

Yours sincerely



Councillor Joe Fagan
Leader of the Council