

## SPECIAL BOARD MEETING



**DATE:** WEDNESDAY 14 JANUARY 2015

**TIME:** 8:30 A.M.

**VENUE:** BOARDROOM, WAVERLEY GATE, 2-4 WATERLOO PLACE, EDINBURGH EH1 3EG

*Members are reminded that they should declare any financial and non-financial interests they have in the items of business for consideration, identifying the relevant agenda item and the nature of their interest. It is also a member's duty under the Code of Conduct to ensure that any changes in circumstances are reported to the Corporate Services Manager within one month of them changing.*

### AGENDA

<u>Agenda Item</u>	<u>Lead Member</u>
Welcome to Members of the Public and the Press	
Apologies for Absence	
1. Integration of Health and Social Care: Integration Schemes	AMcM/PG/ JF *
2. The Disestablishment of the Community Health (and Care) Partnerships	AMcM *
3. Any Other Competent Business	
4. Next Board Meeting: Wednesday 4 February 2015 at 9:30 a.m. in the Boardroom, Waverley Gate.	
5. Next Development Session: Wednesday 4 March 2015 at 9:30 a.m. in the Boardroom, Waverley Gate.	
6. Resolution to take items in closed session	
7. Organisational Arrangements for the Management of Lothian Acute Hospital Services	TD/JC/LK ®
8. Introduction to Primary Care Priorities and Proposition	DAS/CM p

#### Board Meetings

4 February 2015  
1 April 2015  
24 June 2015\*  
5 August 2015  
7 October 2015  
2 December 2015

#### Development Sessions

4 March 2015  
6 May 2015  
15 July 2015  
2 September 2015  
4 November 2015

\* = paper attached    # = to follow    v = verbal report    p = presentation    ® = restricted

For further information please contact Peter Reith, ☎ 35672, ✉ [peter.reith@nhslothian.scot.nhs.uk](mailto:peter.reith@nhslothian.scot.nhs.uk)

Special Board Meeting  
14 January 2015

Director of Strategic Planning, Performance Reporting & Information/Joint Director of Health & Social Care, West Lothian/Joint Director of Health & Social Care, Edinburgh

**SUMMARY PAPER - INTEGRATION OF HEALTH AND SOCIAL CARE: INTEGRATION SCHEMES**

This paper aims to summarise the key points in the full paper.

The relevant paragraph in the full paper is referenced against each point.

<ul style="list-style-type: none"><li>• Consider and approve for public consultation the:<ul style="list-style-type: none"><li>▪ West Lothian draft Integration Scheme;</li><li>▪ Edinburgh draft Integration Scheme;</li></ul></li></ul>	Appendices 1,2
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Strategic Programme Manager  
8 January 2015  
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# **NHS Lothian**

Special Board Meeting  
14 January 2015

Director of Strategic Planning, Performance Reporting & Information/Joint Director of Health & Social Care, West Lothian/Joint Director of Health & Social Care, Edinburgh

## **INTEGRATION OF HEALTH AND SOCIAL CARE: INTEGRATION SCHEMES**

### **1 Purpose of the Report**

- 1.1 The purpose of this report is to invite the Board to approve for consultation two of the four Integration Schemes required in Lothian to establish the Integration Joint Boards. The Board received and approved for consultation the Midlothian and East Lothian Integration Schemes in December 2014.
- 1.2 This report is directly relevant to one of the 2014/15 corporate objectives (No 11): *“Improve integration of care by creating four Integrated Joint Boards in line with the Public Bodies (Scotland) Act.”*

Any member wishing additional information should contact the Executive Lead in advance of the meeting.

### **2 Recommendations**

- 2.1 Consider and approve for public consultation the:
  - West Lothian draft Integration Scheme;
  - Edinburgh draft Integration Scheme;
- 2.4 To note and agree the consultation period as set out in 4.3

### **3 Discussion of Key Issues**

- 3.1 The Public Bodies (Joint Working) (Scotland) Act 2014 received Royal Assent on 1 April 2014 with a requirement for Local Authorities and Health Boards to jointly submit Integration Schemes for Ministerial approval by 31 March 2015. NHS Lothian is required to jointly prepare and submit four Integration Schemes, one for each Local Authority area in Lothian.
- 3.2 Each Integration Scheme must include all matters described in the Public Bodies (Joint Working) (Integration Scheme) (Scotland) Regulations 2014. The prescribed information is to be agreed between the Health Board and the relevant Local Authority.

- 3.3 The Board agreed in December 2014 to the public consultation of the East and Midlothian Schemes. In the same meeting in December the Board were made aware of draft guidance published by Scottish Government which was ambiguous in the accountability of operational delivery between the Health Board, the Integration Joint Board and the Council.
- 3.4 A subsequent meeting was held in December with delegates from NHS Lothian, City of Edinburgh Council and Scottish Government to clarify the position of Scottish Government on operational oversight. The Government's position is that the Integration Joint Board is fully responsible for the carrying out of functions that have been delegated to it. However as it cannot employ or contract staff, it requires to direct the Health Board and the local authority to deliver services on its behalf. The Health Board and the local authority will therefore always be responsible in law for the delivery of services. The effect of this is that the operational governance of integration functions will be a combination of the governance activities of the Integration Joint Board and the governance activities of the Health Board and the local authority.
- 3.5 The Integration Joint Board will issue directions to the Health Board and the local authority through its Chief Officer. Those directions will in the main require that the Chief Officer to take forward the development of the Integration Joint Board's strategic plan, and leading on ensuring that the plan is delivered. As the Chief Officer will not be personally managing all of the integration functions, ensuring the strategic plan is being delivered will include getting assurance from other chief officers (for hosted services) and other managers in the Health Board and the local authority.
- 3.6 The Scottish Government subsequently issued revised draft guidance on 19 December, and this included a simpler section on the issue of local operational delivery. The draft Edinburgh Integration Scheme has been prepared after consideration of the discussions and the revised guidance. From now until the final schemes are submitted, all four integration schemes will be reviewed to ensure they are aligned to the developing thinking and guidance.

#### **4 Developing the Integration Schemes**

- 4.1 In Lothian the draft Integration Schemes were developed by senior officers working in the Health Board and the relevant Local Authority. As the Integration Schemes developed they were shared between partnerships. This led to the Integration Schemes for Midlothian, East Lothian and Edinburgh being broadly consistent in style and content.
- 4.2 The West Lothian Scheme is different in appearance to the other three schemes in Lothian but shares many of principles in the other three schemes. It is crucial during the consultation that the Board Executive Directors and other NHS Lothian senior staff review the content of all four schemes to ensure that the content meets the requirements of NHS Lothian and the Scottish Government as described in the regulations.
- 4.3 The Regulations require consultation on the Integration Schemes with internal and external stakeholders. In addition to the internal consultation already undertaken in the Health Board and Local Authorities a formal joint-consultation is planned for

each Integration Scheme with external stakeholders as well as a wider internal consultation with staff. The timeframe for this consultation is dependent on the dates when the draft Integration Scheme is approved by the NHS Board and the relevant Local Authority. There is not a required length for the consultation. The table below describes the consultation timetable for each Integration Scheme and the date when the final Integration Scheme will be approved.

**Table 1:** Process for consultation and approval for each Integration Scheme in Lothian

	Approval of Integration Schemes for consultation	Consultation period	Approval of final Integration Scheme prior to submitting to Scottish Government
East Lothian Council	16 Dec	18 Dec - 18 Feb	10 March
Edinburgh Council	20 Jan	21 Jan - 20 Feb	12 March
Midlothian Council	16 Dec	17 Dec - 17 Feb	3 March
West Lothian Council	22 Dec	15 Jan - 20 Feb	10 March
<hr/>			
NHS Lothian for East Lothian and Midlothian Schemes	3 Dec 14	As above for East Lothian and Midlothian	4 March
NHS Lothian for West Lothian and Edinburgh Schemes	14 Jan 15	As above for West Lothian and Edinburgh	4 March

4.4 The Board agreed in December 2014 that the Board Development Session on 4 March will be constituted as a meeting of the NHS Board for final sign off of the schemes before submission to Scottish Government on 31 March.

## **5 Delegation of additional functions**

5.1 The Board previously agreed in October 2014 to delegate additional functions to the Integration Joint Board beyond the functions described in the Regulations that *must* be delegated. Since then the Scottish Government has published the final Regulations which have informed the revised list in the draft Integration Schemes of additional health functions that will be delegated to the Integration Joint Board.

5.2 The additional functions that NHS Lothian has elected to delegate are the following health services as they relate to provision for people under the age of 18:

- Primary Medical Services and General Medical Services (including GP Pharmaceutical services)
- General Dental Services, Public Dental Services and the Edinburgh Dental Institute
- General Ophthalmic Services
- General Pharmaceutical Services
- Out of Hours Primary Medical Services

- Learning Disabilities

The rationale for including these functions in addition is because they all provide a 'cradle to grave' service and the service for the whole population should be planned by one organisation instead of splitting the strategic planning of these services at 18 years of age.

- 5.3 The Local Authorities are also empowered under the Regulations to delegate additional functions to the Integration Joint Board. In Edinburgh and West Lothian the draft schemes have been developed on the basis that only the prescribed Local Authority functions and services will be delegated. Separate governance arrangements will need to be agreed for those services that are not delegated.

## **6 Key Risks**

There is an entry on the corporate risk register relating to health and social care integration and the preparation of integration schemes (risk ID: 3567). However such is the scope of functions covered by the Act, arguably integration has a bearing on all the Board's corporate objectives, and risks at all levels of the Board's risk management system.

## **7 Risk Register**

The following risk is recorded on the NHS Lothian risk register.

'There is a risk that the Board and its Partners fail to submit agreed integration plans that satisfy the Scottish Government requirements to agreed timescales resulting in a failure to meet its legal responsibilities (Public Bodies Joint Working Act)'.

NHS Lothian must follow instruction in the Regulations to ensure that Integration Plans are submitted by 31 March 2015.

## **8 Impact on Inequality, Including Health Inequalities**

- 8.1 There has been no impact assessment carried on this work. An Impact assessment will be completed before the four Integration Schemes are presented to the Lothian NHS Board in March 2015 after amendments to the Integration Schemes as a result of consultation and publication of final guidance from Scottish Government.

## **9 Involving People**

- 9.1 There will be a public consultation on the content of the four Integration Schemes after the Schemes have been agreed by the Lothian NHS Board and the relevant Local Authority. To date officers have been working with colleagues in local authorities and the Scottish Government to develop the integration schemes.

## **10 Resource Implications**

- 10.1 There are no resource implications from this paper but there are substantial resource implications from the implication of the Act and the changes being

proposed in terms of establishing governance and management arrangements. These require to be worked through during the course of the consultation and in establishing the Integration Joint Boards and the setting agreed budgets for the first year, which we are describing as a transitional year.

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8 January 2015  
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**Integration Scheme  
(Body Corporate)**

**Edinburgh Integration Joint Board**

**18 December 2014**

**Version 2.7**

**DRAFT for Public Consultation**



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## **Preamble: Aims of the Scheme and Vision for the IJB**

The vision of the Parties for the IJB is to work together for a caring, healthier, safer Edinburgh.

The work of the IJB will be guided by the integration delivery principles as stated in the Act, and will contribute to the achievement of agreed health and wellbeing outcomes.

The Parties' ambition for the IJB is as follows:

- (a) In Edinburgh, the successful integration of health and social care will mean that people experience improved health and wellbeing; and that inequalities, including health inequalities, are reduced.
- (b) Services will always be planned with and around people and local communities, who will be active partners in the design, delivery and evaluation of these services.
- (c) The Parties will develop, train and support staff from all organisations to work together to respond appropriately to meet people's needs.
- (d) The Parties will deploy their shared resources in the most cost effective way to achieve better outcomes for people, and to allow public funds to go further to meet demand.
- (e) The IJB will work in partnership with each of the Parties, third sector organisations, independent sector providers and most importantly people and communities themselves, to deliver improved and fully-integrated health and social care services for the people of Edinburgh.

The provisions within this preamble are not intended to create legally binding obligations.

## **Integration Scheme**

**between**

**The City of Edinburgh Council**, constituted under the Local Government etc (Scotland) Act 1994 and having its principal office at Waverley Court, 4 East Market Street, Edinburgh EH8 8BG (“**CEC**”);

**and**

**Lothian Health Board**, established under section 2(1) of the National Health Service (Scotland) Act 1978 (operating as “NHS Lothian”) and having its principal offices at Waverley Gate, Waverley Gate, 2-4 Waterloo Place, Edinburgh EH1 3EG (“**NHS Lothian**”)

(together the “**Parties**”, and each a “**Party**”)

## **Background**

- A. The Parties are required to comply with either subsection (3) or (4) of section 2 of the Act, and have elected to comply with subsection (3) such that the Parties must jointly prepare an integration scheme (as defined in section 1(3) of the Act) for the Edinburgh Area.
- B. In preparing this Scheme, the Parties (a) have had regard to the integration planning principles set out in section 4(1) of the Act and the national health and wellbeing outcomes prescribed by the Public Bodies (Joint Working)(National Health and Wellbeing Outcomes)(Scotland) Regulations 2014, (b) have complied with the provisions of section 6(2) of the Act and (c) have followed the guidance issued by the Scottish Ministers regarding the governance arrangements that are considered by Scottish Ministers to provide the requisite degree of integration; and in finalising this Scheme, the Parties have taken account of any views expressed by virtue of the consultation processes undertaken under section 6(2) of the Act.

The Parties agree as follows:

### **1. Definitions and Interpretation**

- 1.1 The following definitions shall apply throughout this integration scheme and the preamble, except where the context otherwise requires:

“Act” means the Public Bodies (Joint Working) (Scotland) Act 2014;

“Edinburgh Area” means the local authority area served by CEC;

“IJB” means the Integration Joint Board for the City of Edinburgh Council area, to be established by Order under section 9 of the Act;

“IJB Budget” means the total funding available to the IJB in the relevant financial year as a consequence of:

- a) the payment for delegated functions from NHS Lothian under Section 1(3) (e) of the Act;
- b) the payment for delegated functions from CEC under Section 1(3) (e) of the Act; and
- c) the amount “set aside” by NHS Lothian for use by the IJB for functions carried out in a hospital and provided for the areas of two or more local authorities under Section 1(3)(d) of the Act;

“Integration Joint Boards Order” means the Public Bodies (Joint Working) (Integration Joint Boards) (Scotland) Order 2014;

“Integration Scheme Regulations” means the Public Bodies (Joint Working) (Integration Scheme) (Scotland) Regulations 2014;

“Lothian IJBs” means the integration joint boards to which functions are delegated in pursuance of the integration schemes in respect of the local authority areas served by CEC, East Lothian Council, Midlothian Council and West Lothian Council respectively;

“Neighbouring IJBs” means the Lothian IJBs excluding the IJB;

“Operational Budget” means the amount of the payment made from the IJB to a Party in order to carry out delegated functions;

“Outcomes” means the health and wellbeing outcomes prescribed by the Scottish Ministers in Regulations under section 5(1) of the Act;

“Relevant Date” means the date on which the IJB is established by order under section 9 of the Act;

“Scheme” means this integration scheme;

“Standing Orders” means the standing orders for the regulation of the procedure and business of the IJB prepared in accordance with the Integration Joint Boards Order;

“Strategic Plan” means the plan which an integration joint board is required to prepare, in accordance with section 29 of the Act, in relation to the functions delegated to that integration joint board in pursuance of an integration scheme in respect of the relevant local authority area; and, except in its application to a strategic plan prepared or under preparation by one of the Neighbouring IJBs, means the strategic plan which the IJB is required to prepare in respect of the Edinburgh Area;

- 1.2 Words and expressions defined in the Act shall bear the same respective meanings in the Scheme, unless otherwise defined in the Scheme.
- 1.3 References to Sections are to the sections of this Scheme.
- 1.4 References to Annexes are to the annexes to this Scheme and references to Parts are to parts of the relevant Annex.

## **2. The Model to be Implemented**

- 2.1 The integration model set out in section 1(4)(a) of the Act will apply in relation to the Edinburgh Area, namely the delegation of functions by each of the Parties to a body corporate (an “integration joint board”) that is to be established by Order under section 9 of the Act.
- 2.2 This Scheme comes into effect on the Relevant Date.

## **3. Local Governance Arrangements**

### **3.1 Membership**

3.1.1 The IJB shall have the following voting members:

- a. 5 councillors nominated by CEC
- b. 5 members nominated by NHS Lothian in compliance with articles 3(4) and 3(5) of the Integration Joint Boards Order.

3.1.2 The Parties may determine their own respective processes for deciding who to nominate as voting members of the IJB.

3.1.3 Non-voting members of the IJB will be appointed in accordance with regulation 3 of the Integration Joint Boards Order.

3.1.4 The term of office of members shall be as prescribed by regulation 7 of the Integration Joint Boards Order.

### **3.2 Chairperson and vice chairperson**

3.2.1 The IJB shall have a chairperson and a vice-chairperson who will both be voting members of the IJB.

3.2.2 The term of office for the chairperson and the vice-chairperson will be two years.

3.2.3 The right to appoint the chairperson and vice-chairperson respectively shall alternate between each of the Parties on a two-year cycle, on the basis that during any period when the power to appoint the chairperson is vested in one Party, the other Party shall have power to appoint the vice-chairperson.

3.2.4 NHS Lothian shall appoint the chairperson, and CEC the vice-chairperson for the initial two year period from the Relevant Date.

3.2.5 The chairperson shall not have a casting vote.

3.2.6 The standing orders of the IJB shall set out the dispute resolution mechanism to be used in the case of an equality of votes cast in relation to any decision put to a meeting of the IJB.

3.2.7 Each Party may change its appointment as chairperson (or, as the case may be, vice chairperson) at any time; and it is entirely at the discretion of the Party which is making the appointment to decide who it shall appoint.

### **3.3 Audit and Risk Committee**

The IJB will establish an Audit and Risk Committee. The remit, composition and proceedings of the Audit and Risk Committee shall be regulated by provisions contained in the standing orders prepared by the IJB in accordance with article 18 of the Integrated Joint Boards Order.



### **3.4 Disqualification, Resignation, Removal, Voting and other matters**

The provisions of articles 8 to 19 (but excluding article 14) of the Integration Joint Boards Order shall apply in relation to the IJB.

## **4. Delegation of Functions**

4.1 The functions that are to be delegated by NHS Lothian to the IJB (subject to the exceptions and restrictions specified or referred to in Parts 1A and 1B of Annex 1) are set out in Parts 1A and 1B of Annex 1. For indicative purposes only, the services currently provided by NHS Lothian in carrying out these functions are described in Part 2 of Annex 1.

4.2 The functions that are to be delegated by CEC to the IJB (subject to the restrictions and limitations specified or referred to in Part 1 of Annex 2) are set out in Part 1 of Annex 2. For indicative purposes only, the services which are currently provided by CEC in carrying out these functions are described in Part 2 of Annex 2.

## **5. Local Arrangements to Support Preparation of the Strategic Plan**

5.1.1 The Parties will provide the IJB with all information that it may require to prepare its Strategic Plan, including information that is pertinent specifically to localities.

5.1.2 When preparing its Strategic Plan, the IJB must:

- (a) ensure that the Strategic Plan is consistent with the need to operate within the IJB Budget; and
- (b) determine and allocate a budget amount to each function that is to be carried out by one or both of the Parties.

5.1.3 The Strategic Plan will set out:

- (a) the delegated function(s) that are to be carried out;
- (b) the outcomes to be delivered for those delegated functions;
- (c) the amount of and method of determining the payment to be made to one or both of the Parties, in respect of the carrying out of the delegated functions, in line with the allocated budget.

- 5.1.4 Both Parties have existing expenditure commitments relating to the delegated functions that cannot be avoided in the short to medium term. It is agreed that the IJB will take account of these existing commitments in preparing the Strategic Plan and in issuing directions. The Parties agree that existing commitments shall be managed so far as reasonably practicable in a manner that minimises any difficulties which they present in the context of implementing proposals for service re-design in relation to integration functions.
- 5.1.5 The IJB must have regard to the integration delivery principles when preparing its Strategic Plan. The IJB will consider all feedback from the professions, particularly with regard to the following integration delivery principles:
- (a) protects and improves the safety of service users
  - (b) improves the quality of the service
  - (c) makes the best use of the available facilities, people and other resources.

## **6. Local operational delivery arrangements**

- 6.1.1 The IJB must direct the Parties to carry out each of the functions delegated to the IJB. A direction in relation to a given function may be given to one or other of the Parties, or to both Parties. The primary responsibility for delivering capacity (that is to say, activity and case mix) in respect of the services associated with the carrying out of a given function shall lie with the IJB, and shall be reflected in the directions issued from time to time by the IJB. Subject to the provisions of the Act and the Scheme, the Parties are required to follow those directions.
- 6.1.2 The IJB shall oversee delivery of the services associated with the functions delegated to it by the Parties. The Integration Joint Board is the only forum where health and social care functions for the Edinburgh Area are governed by members of both NHS Lothian and CEC. Accordingly NHS Lothian and CEC agree that the primary focus for performance management in respect of delivery of the delegated functions will be at the Integration Joint Board.
- 6.1.3 NHS Lothian and CEC will provide performance information so that the IJB can develop a comprehensive performance management system.
- 6.1.4 The IJB performance management reports will be available to both NHS Lothian and CEC for their use in their respective performance management systems. However it is expected that the voting members of the IJB will take responsibility for performance

management at the IJB, and will provide an account of highlights and/or exceptional matters to meetings of NHS Lothian and CEC.

- 6.1.5 In the interests of efficient governance, the relevant committees of NHS Lothian and CEC will continue to discharge their existing remits for assurance and scrutiny of the carrying out of NHS Lothian and CEC functions, regarding matters such as internal control, quality and professional standards, and compliance with the law. The Integration Joint Board will not duplicate the role carried out by those committees other than in exceptional circumstances where the IJB considers that direct engagement by the IJB (or by a committee established by the IJB) is appropriate in order to secure the proper discharge by the IJB of its statutory responsibilities.
- 6.1.6 Each of the Parties shall use reasonable endeavours to procure that in the event that one of its committees identifies an issue which is of direct and material relevance to the Integration Joint Board, the chair of that committee will advise the Chair of the Integration Joint Board and the Chief Officer of that matter and will co-operate with the IJB (liaising as appropriate with the IJB Audit and Risk Committee) in supplying such further information and evidence in respect of that matter as the IJB may reasonably request.
- 6.1.7 The Parties shall ensure that their respective standing orders, schemes of delegation and other governance documents are amended (if and in so far as required) to reflect the IJB's powers and remit, and its place as a common decision-making body within the framework for delivery of health and social care within the Edinburgh Area.
- 6.1.8 The voting members of the Integration Joint Board are councillors of CEC and non-executive directors (or other board members) of NHS Lothian. In their capacity as councillors and non-executive directors, they will be engaged in the governance of their respective constituent bodies, and it is likely that they will be members of one or more committees of those constituent bodies.
- 6.1.9 Given the overall vision as outlined in the preamble to the Scheme, it is the intention that the interests of NHS Lothian, CEC, and the Integration Joint Board should be integrated. In all matters associated with the work of the Integration Joint Board, the voting members of the Integration Joint Board will be expected by the Parties to play a crucial role in:
- (a) communicating, and having due regard to, the interests of NHS Lothian or (as the case may be) CEC, but on the understanding that, in carrying out their

role as a member of the Integration Joint Board, their primary duties and responsibilities are those which attach to them in that capacity;

- (b) communicating, and having due regard to, the interests of the Integration Joint Board whilst discharging their role as a councillor or (as the case may be) as a non-executive director, but on the understanding that, in carrying out their role as a councillor or non-executive director, their primary duties and responsibilities are those which attach to them in that capacity.

6.1.10 Without prejudice to the role of the voting members of the Integration Joint Board (as specified above) in relation to oversight of operational delivery of services in accordance with directions issued to either or both of the Parties by the Integration Joint Board, the Integration Joint Board will, through the Chief Officer, have an appropriate role in the operational delivery of services by the Parties in the carrying out of integration functions. The Parties acknowledge that the Chief Officer's role in operational delivery will represent an important means by which closer integration of services, in accordance with the integration delivery principles specified in the Act, can be achieved. For the avoidance of doubt, the Chief Officer's role in operational delivery shall not displace

- (a) the responsibilities of each Party regarding compliance with directions issued by the Integration Joint Board; or
- (b) the principle that each Party's governance arrangements must allow that Party to manage risks relating to service delivery.

6.1.11 In addition to the specific commitments set out above and the obligations regarding provision of information attaching to the Parties under the Act, each of the Parties will use reasonable endeavours to provide the Integration Joint Board with any information which the Integration Joint Board may reasonably require from time to time to support its responsibilities regarding strategic planning, performance management, and public accountability.

## **6.2 Potential Impact on another IJB Strategic Plan**

6.2.1 The Parties will support the IJB in ensuring that the consultation process associated with the preparation of each Strategic Plan for the Edinburgh Area includes other integration authorities likely to be affected by the Strategic Plan. The integration

authorities that are most likely to be affected by the Strategic Plan for the Edinburgh Area are:

- (a) East Lothian integration joint board
- (b) Midlothian integration joint board
- (c) West Lothian integration joint board.

6.2.2 NHS Lothian will procure that reciprocal provisions to those set out in Sections 6.2 to 6.6 are contained in the integration schemes of the Neighbouring IJBs.

6.2.3 The Chief Officer will establish a system, which will be supported by the Parties, to ensure that the IJB can:

- (a) effectively engage in all of the planning processes and support the Neighbouring IJBs in discharging their role, including contributing to the work of the Strategic Planning Groups for the Neighbouring IJBs as required;
- (b) provide such information and analysis as Neighbouring IJBs reasonably require for the production of their Strategic Plans
- (c) inform Neighbouring IJBs as to how the services, facilities and resources associated with the functions delegated to the IJB by the Parties are being or are intended to be used with respect to carrying out of those functions in line with these planning processes;
- (d) in a situation where Strategic Plans in one area are likely to have an impact on the plans in another area, ensure that these matters are raised with other relevant integration joint boards and resolved in an appropriate manner.
- (e) in a situation where Strategic Plans in another area are likely to have an impact on the Edinburgh Area, ensure that these matters are raised and any associated risks are mitigated for the benefit of service users.

6.2.4 In addition, a template will be introduced for the IJB, with the support of each of the Parties, to help to ensure that all major strategic matters are considered in light of the potential impact on Neighbouring IJBs, and on services provided by the Parties which are not delivered in the course of carrying out functions delegated to the IJB.

### 6.3 Lothian Hospitals Strategic Plan

- 6.3.1 NHS Lothian will develop a plan (the “**Lothian Hospitals Strategic Plan**”) to avoid destabilisation of hospital provision and to support the Lothian IJBs to achieve their purpose. The Lothian Hospitals Strategic Plan will encompass both functions delegated to the Lothian IJBs and functions that are not so delegated.
- 6.3.2 The Lothian Hospitals Strategic Plan will be developed in partnership with the Lothian IJBs where integration functions are delivered by NHS Lothian in a hospital. It will reflect the relevant provisions of the Strategic Plans prepared by the respective Lothian IJBs, as well as NHS Lothian plans for non delegated functions. The first Lothian Hospitals Strategic Plan will be published by 1 December 2015
- 6.3.3 The purpose of the Lothian Hospitals Strategic Plan is to ensure that planning for hospital functions and use of hospital facilities is:
- (a) responsive to and supports each Strategic Plan prepared by the Lothian IJBs for delegated functions; and
  - (b) supports the requirement of NHS Lothian to deliver hospital services required by the IJB and other hospital services that are not the responsibility of the Lothian IJBs (e.g. tertiary, trauma, surgical, planned and children’s services).
- 6.3.4 The Lothian Hospitals Strategic Plan will be a plan developed jointly by NHS Lothian and the Lothian IJBs. The elements of the Lothian Hospitals Strategic Plan addressing non delegated functions can only be agreed by the NHS Lothian Board after the four Lothian IJBs have been consulted and their views and requirements appropriately considered. Elements of the Lothian Hospitals Strategic Plan which cover functions delegated to the respective Lothian IJBs will be signed off by relevant Lothian IJBs in consultation with NHS Lothian and all Lothian IJBs.
- 6.3.5 The Lothian Hospitals Strategic Plan will be updated at least every three years; the process to update the plan will be led by NHS Lothian.

## **6.4 Decisions outside of the Strategic Plans**

6.4.1 Section 36 of the Act requires integration joint boards to seek and have regard to the views of their strategic planning group when proposing to take a significant decision about the arrangements for carrying out integration functions other than by revising the Strategic Plan. In addition to fulfilling this specific legal duty the IJB will have regard to the likely impact of any such change upon Neighbouring IJBs and ensure that any such change is discussed with the relevant Neighbouring IJBs.

## **6.5 Potential Impact on NHS Lothian or CEC strategic matters**

6.5.1 NHS Lothian provides clinical services on both a national and regional basis, as well as carrying out functions for the four local authority areas served by NHS Lothian which have not been delegated to the Lothian IJBs.

6.5.2 CEC also delivers a range of other services in connection with the integration functions, including (without limitation) housing services.

6.5.3 To ensure that the potential impact of the Strategic Plans can be considered in relation to all NHS Lothian services, facilities and resources, NHS Lothian will establish systems to ensure (so far as reasonably practicable) that:

- (a) the managers associated with the relevant services can effectively engage in all of the planning processes;
- (b) it informs each of the Lothian IJBs as to how NHS Lothian's services, facilities and resources are being or are being intended to be used as a result of these planning processes;
- (c) it can contribute to any given Strategic Plan having duly considered the interests of all the Lothian IJBs and any other planning requirements.

6.5.4 To ensure that the potential impact of the Strategic Plans can be considered in relation to CEC services, facilities and resources in connection with the integration functions, CEC will establish a system which ensures (so far as reasonably practicable) that:

- (a) the senior officers associated with the relevant services can effectively engage in the planning processes

- (b) it informs the IJB where appropriate as to how relevant services, facilities and resources are being or are being intended to be used as a result of these planning processes;
- (c) it can contribute to the Strategic Plan having duly considered the interests and planning requirement of other services delivered by CEC in connection with the integrated functions.

6.5.5 The IJB will factor the output of the above systems into its process for developing its Strategic Plan. This will be achieved by:

- (a) The Chief Officers for the Lothian IJBs sharing information and working collaboratively, taking reasonable steps to ensure that each of the Lothian IJBs is aware of emerging proposals intended to be described in any of the Strategic Plans which are under preparation by the Lothian IJBs;
- (b) Regular meetings between the Chief Officers for the Lothian IJBs and relevant managers of NHS Lothian to provide the Chief Officers with an opportunity to communicate any proposed changes likely to be required by their integration joint boards which will impact on service provision for the population served by another integration joint board and to allow NHS Lothian managers to make the Chief Officers of the Lothian IJBs aware of any new developments which could have a bearing on Strategic Plans.
- (c) Regular meetings between the Chief Officer of the IJB and relevant senior officers of CEC to provide the Chief Officer with an opportunity to communicate any proposed changes likely to be required by the IJB which may impact on service provision for other services delivered by CEC, and to allow CEC senior officers to make the Chief Officer aware of any developments which could have a bearing on the Strategic Plan.

## **6.6 Professional, technical or administrative support services**

6.6.1 In the short term, the Parties will continue to use the arrangements that have already been put in place to provide professional, technical and administrative support to Community Health Partnerships, social care services and joint working more generally.



6.6.2 In order to develop a sustainable long term solution, a working party will be convened, with membership from NHS Lothian and the four local authorities which prepared integration schemes for the Lothian IJBs. This working party will develop recommendations for approval by NHS Lothian, the four local authorities, and the Lothian IJBs.

6.6.3 Key matters that the working party will address are:

- (a) understanding the needs of the Lothian IJBs (in relation to functions delegated to them), as well as the continuing needs of the Parties (for non-delegated functions);
- (b) defining what is meant by “professional, technical or administrative services”;
- (c) systems to appoint the Chief Officer and Chief Finance Officer, as well as addressing their requirements for support;
- (d) bringing all these elements together and devising a pragmatic and sustainable solution.

6.6.4 The working party will link in with any ongoing initiatives that are pertinent to its agenda, so that all relevant work is co-ordinated. Any changes will be taken forward through the existing systems in NHS Lothian and CEC for consultation and managing organisational change.

6.6.5 As soon as the proposals have been finalised by the working party and agreed by NHS Lothian and the four local authorities which prepared the integration schemes for the Lothian IJBs, a draft agreement will be prepared reflecting the agreed proposals. The draft agreement will be adjusted in line with discussions among the parties, and, as soon as the terms have been finalised, it is intended that the agreement will then be formally executed by NHS Lothian, the four local authorities, and the Lothian IJBs (including the IJB).

## **6.7 Performance targets, improvement measures and reporting arrangements**

6.7.1 All national and local outcomes, improvement measures and performance targets which are connected exclusively with the functions delegated by the Parties to the IJB under the Scheme will become the responsibility of the IJB to deliver; and the IJB will also be responsible for providing all such information regarding integration functions

which is required by either of the Parties to enable each of them to fulfil its obligations regarding reporting arrangements in respect of those functions.

- 6.7.2 Where particular national or local outcomes, measures or targets (and associated reporting arrangements) relate to services which are associated with both integration functions and functions which are not delegated by a Party to the IJB, the responsibility for the outcomes, measures or targets (and associated reporting arrangements) will be shared between the IJB and the Party or Parties which exercise those functions, and the IJB will be responsible for providing all such information regarding those integration functions as is required by the relevant Party to enable it to fulfil its obligations regarding reporting arrangements.
- 6.7.3 A set of shared principles will be developed and agreed between the Parties for targets and measurement based on existing best practice.
- 6.7.4 A core group of senior managers and relevant support staff from each Party will develop the performance framework for the IJB, taking account of relevant national guidance. The framework will be underpinned by the Outcomes and will be developed to drive change and improve effectiveness. The framework will be informed by an assessment of current performance arrangements and the development of a set of objectives which the framework will be intended to achieve.
- 6.7.5 A core set of indicators and measures will be identified by the Parties from publicly accountable and national indicators and targets which relate to services delivered in carrying out the functions delegated to the IJB.
- 6.7.6 An integration dataset (“**Integration Dataset**”) will be created for the IJB. This will include information on the data gathering, reporting requirements and accountability for each of these measures and targets and including, in relation to each target, the extent to which responsibility is to transfer to the IJB. This work will be shared with and reviewed by the IJB and amended as appropriate following such review..
- 6.7.7 Indicators will be aligned with the priority areas identified in the joint strategic needs assessment and the Strategic Plan and will be refined as these documents are reviewed and refreshed. These priority areas will be aligned with all the indicators within the Integration Dataset and will be linked to the Outcomes to demonstrate progress in delivering these.

- 6.7.8 The Parties have obligations to meet targets for functions which are not delegated to the IJB, but which are affected by the performance and funding of integration functions. Therefore, when preparing performance management information, the Parties agree that the effect on both integration and non-integration functions must be considered and details must be provided of any targets, measures and arrangements for the IJB to take into account when preparing the Strategic Plan. Where responsibility for performance measures and targets is shared, this will be set out clearly for agreement by the relevant Parties.
- 6.7.9 The Integration Dataset will include information on functions which are not delegated to the IJB. Either one of the Parties, or the IJB, will be able to reasonably require information of that nature to be included within the Integration Dataset.
- 6.7.10 A draft Integration Dataset will be prepared by the Parties by 1 April 2015 and this will be reviewed and updated during the strategic planning process in 2015. A final Integration Dataset will be submitted for approval by the IJB and the Parties before 1 March 2016.
- 6.7.11 The Integration Dataset will be reviewed on at least an annual basis, through a process similar to that outlined above.

## **7. Clinical and Care Governance -**

### **7.1 Introduction**

- 7.1.1 The Parties are to delegate certain of their respective clinical and care functions to the IJB in accordance with Section 4 of the Scheme. The Parties have had regard to their continuing duties regarding clinical and care governance as well as the integration planning principles (as set out in the Act) and the Outcomes when preparing the Scheme, as well as their continuing duties regarding clinical and care governance.
- 7.1.2 This section of the Scheme sets out the arrangements that will be put in place to allow the IJB to fulfil its role with professional advice and with appropriate clinical and care governance in place.
- 7.1.3 Both Parties have well established governance systems to provide governance oversight in terms of clinical and care governance, as well as professional

accountabilities. Those existing systems will continue following the establishment of the IJB.

7.1.4 Continuous improvement and the quality of service delivery (and its impact on outcomes) will be addressed through the development of the IJB's performance management framework pursuant to Section 5 of the Scheme.

7.1.5 Each Party's existing governance systems will continue to be applied to all functions that will be carried out by that Party.

7.1.6 Within its existing governance framework, NHS Lothian has:

(a) a healthcare governance committee, the remit of which is to provide assurance to the Board of NHS Lothian that the quality of all aspects of care in NHS Lothian is person-centred, safe, effective, equitable and maintained to a high standard and to provide assurance to the Board of NHS Lothian that NHS Lothian meets its responsibilities with respect to:-

- i. NHS Lothian participation standards
- ii. Volunteers/Carers
- iii. information governance
- iv. Protection of vulnerable people including children, adults, offenders
- v. Relevant statutory equalities duties;

and

(b) a staff governance committee, the remit of which is to support and maintain a culture within NHS Lothian where the delivery of the highest possible standard of staff management is understood to be the responsibility of everyone working within NHS Lothian and is built upon partnership and collaboration. The staff governance committee must ensure that robust arrangements to implement the (NHS Scotland) Staff Governance Standard are in place and monitored.

7.1.7 The staff governance committee has the primary role on staff governance matters, but can and does refer matters of relevance to the healthcare governance committee.

- 7.1.8 The healthcare governance committee can request assurance from the staff governance committee on matters of direct relevance to its remit, e.g. quality of recruitment, learning and development, completion of mandatory training.
- 7.1.9 Within CEC, the Chief Social Work Officer has overall responsibility for the professional standards of CEC's social work and social care staff. The workforce is also regulated by the Scottish Social Services Council (SSSC), and all professional staff must by law be registered with the SSSC. This registration requirement will, in due course, extend to all social care staff employed by CEC and the voluntary and independent sectors.
- 7.1.10 The Chief Social Work Officer reports annually to CEC on the registration of the workforce and on training, including mandatory training and post-qualifying learning and development.
- 7.1.11 The Chief Social Work Officer also reports annually to CEC on standards achieved, governance arrangements and volume/quantity of statutory functions discharged. This report must comply with national guidance issued by the Scottish Government.

## **7.2 Professional advice**

- 7.2.1 NHS Lothian's Board has within its executive membership three clinical members (referred to below as "**Executive Clinical Directors**"): a Medical Director, a Nurse Director, and a Director of Public Health. Their roles include responsibility for the professional leadership and governance of the clinical workforce (medical, nursing, allied health professionals, healthcare scientists, psychology, pharmacy), as well as clinical governance within NHS Lothian generally. The creation of the IJB does not change their roles in respect of professional leadership, and they remain the lead and accountable professionals for their respective professions.
- 7.2.2 CEC has a Chief Social Work Officer who reports to the Chief Executive and councillors. The Chief Social Work Officer monitors service quality and professional standards in social care and social work, for staff employed in both adult and children's services, together with standards in relation to the protection of people at risk. The Chief Social Work Officer role also includes quality assurance of decision-making with regard to adult social care, mental health, criminal justice and children's services, in particular in relation to public protection and the deprivation of liberty.

- 7.2.3 The creation of an IJB does not change the Chief Social Work Officer's role in respect of professional leadership, and he or she will remain the lead and accountable professional for his or her profession.
- 7.2.4 The Chief Social Work Officer must be a non-voting member of the IJB
- 7.2.5 The IJB may elect to appoint one or both of the Medical Director and Nurse Director as additional non-voting members of the IJB.
- 7.2.6 The Integration Joint Boards Order requires NHS Lothian to fill the following non-voting membership positions on the IJB:
- (a) a registered medical practitioner whose name is included in the list of primary medical services performers prepared by the Health Board in accordance with Regulations made under Section 17P of the National Health Service (Scotland) Act 1978;
  - (b) a registered nurse who is employed by the Health Board or by a person or body with which the Health Board has entered into a general medical services contract; and
  - (c) a registered medical practitioner employed by the Health Board and not providing primary medical services.
- 7.2.7 NHS Lothian will consider the advice of the Executive Clinical Directors, and of any other relevant officer it deems fit, before making appointments to fill the membership positions referred to in Section 7.2.6.
- 7.2.8 NHS Lothian will develop a role description for the appointments referred to in Section 7.2.6, to ensure that their role on the IJB with regard to professional leadership and accountability is clearly defined and understood.
- 7.2.9 The three health professional representatives referred to in Section 7.2.6 will each also be:
- (a) a member of an integrated professional group (should it be established), and/or
  - (b) a member of an NHS Lothian Board committee, and/or

- (c) a member of a consultative committee established by NHS Lothian.
- 7.2.10 If a new 'integrated professional group' is established, then the Chief Social Work Officer must also be a member.
- 7.2.11 The three health professional representatives set out in Section [7.2.6] and the Chief Social Work Officer will be expected by the Parties to play a lead role in:
- (a) communicating and having regard to their duties to NHS Lothian or CEC as the case may be whilst discharging their role as a member of the IJB;
  - (b) communicating and having regard to the interests of the IJB whilst discharging their duties as professionals employed by NHS Lothian or (as the case may be) CEC.
- 7.2.12 The members will be expected to communicate regularly with the Executive Clinical Directors, and CEC's Chief Executive as and when appropriate.
- 7.2.13 The presence of these four members will ensure that the decisions of the IJB are informed by professional advice from within the membership of the IJB.
- 7.2.14 As noted in Section 7.1.10, the Chief Social Work Officer reports annually to CEC on the registration of the workforce and on training, including mandatory training and post-qualifying learning and development.
- 7.2.15 NHS Lothian includes a governance statement in its annual accounts, the content of which is informed by the annual reports of its governance committees (such as healthcare governance and staff governance) and certificates of assurance from its Executive Clinical Directors. The IJB may place reliance on these existing processes, and the Parties will provide any such reports from those processes as the IJB may require.
- 7.2.16 The Executive Clinical Directors shall be entitled to raise issues directly with the IJB in writing. The IJB shall be required to respond in writing when issues are raised in this way. The Chief Social Work Officer will be a non-voting member of the IJB, and can therefore raise any issues directly at the IJB.

- 7.2.17 The engagement of professionals throughout the process to develop and consult on the Strategic Plan, is intended to ensure that the IJB has all the required information to prepare a Strategic Plan which will not compromise professional standards.
- 7.2.18 In the unlikely event that the IJB issues a direction to NHS Lothian which is reasonably likely to compromise professional standards, then in the first instance the relevant Executive Clinical Director will write to the IJB.
- 7.2.19 If the issue is not resolved to his/her satisfaction, he/she must inform the Board of NHS Lothian before it takes action to implement the direction, and the following measures will apply:
- (a) the relevant executive clinical director must ensure that appropriate advice is tendered to the Board of NHS Lothian on all matters relating to professional standards;
  - (b) the relevant executive clinical director must set out in writing to the Board of NHS Lothian any objections he/she may have on a proposal that may compromise compliance with professional standards;
  - (c) the Board of NHS Lothian will inform the IJB that it has received such objections, along with a statement of the views of the Board of NHS Lothian on those objections;
  - (d) if the Board of NHS Lothian decides to proceed with a proposal despite those objections, then the relevant executive clinical director must obtain written authority from the Board of NHS Lothian to act on the proposal. The Board of NHS Lothian must inform the Scottish Government Health & Social Care Directorate if a request for such a written authority is made. A copy of that authority must be sent to the appropriate regulatory body, e.g. General Medical Council;
  - (e) once the relevant executive clinical director has received that written authority, then he/she must comply with it;
- 7.2.20 The three professional clinical members on the IJB (two medical practitioners, one nurse) are non-voting members. They will be expected by the Executive Clinical Directors to raise any concerns in relation to matters which may compromise professional standards with the IJB.



- 7.2.21 If any of the three professional clinical members becomes aware of a matter arising from the conduct of IJB business which may compromise professional standards, he/she must immediately notify the Chief Officer of the IJB of his/her concerns, and if his/her concerns are not resolved by the Chief Officer to his/her satisfaction, must then raise the matter with the Chief Executive of NHS Lothian.
- 7.2.22 The Chief Social Work Officer will be a non-voting member of the IJB, and as such, will contribute to decision-making, and will provide relevant professional advice to influence service development.
- 7.2.23 In the event that the IJB issues an instruction to a Party which in the view of the Chief Social Work Officer compromises professional social work standards or the discharge of statutory functions, the Chief Social Work Officer must immediately notify the Chief Officer of the IJB of his/her concerns, and if his/her concerns are not resolved by the Chief Officer to his/her satisfaction, must then raise the matter with the Chief Executive of CEC.

### **7.3 Professionals Informing the IJB Strategic Plan**

- 7.3.1 With regard to the development and approval of its Strategic Plan, the IJB is required by the Act to:
- (a) establish a strategic planning group (which will review the draft Strategic Plan). This strategic planning group must include a nominee from each Party in its membership, as well as representation from health professionals and social care professionals. The Parties will make recommendations to the IJB with regard to the representation from health professionals and social care professionals;
  - (b) formally consult both Parties on its Strategic Plan, and take into account their views before it finalises the Strategic Plan.
- 7.3.2 There will be three opportunities within these arrangements for professional engagement in the planning process;
- (a) at the IJB
  - (b) in the context of the work of the strategic planning group; and

- (c) as part of the consultation process with the Parties associated with the Strategic Plan.

7.3.3 The membership of the IJB will not be the only source of professional advice available to the IJB, In advance of the establishment of the IJB, the Parties agree that the chairs of all appropriate committees and groups will be informed that they are able to, and expected to, directly provide advice to the IJB. Those committees and groups may also advise an integrated professional group that provides advice to the IJB. Those committees and groups include, but are not limited to:

- (a) Area Clinical Forum
- (b) Local consultative committees that have been established under Section 9 of the National Health Service (Scotland) Act 1978.
- (c) Managed Clinical/ Care Networks
- (d) Edinburgh Public Protection Committees (adult and child protection, drug and alcohol, violence against women, offender management etc). The IJB will consult these committees on any plans that may impact on the protection of children or vulnerable adults or people who are assessed as posing a risk
- (e) any integrated professional group which may be established.

*[Note: A schematic illustrating how the above groups interact with NHS Lothian, CEC, the IJB, the Strategic Planning Group, and the localities will be developed in due course and inserted here]*

7.3.4 The shadow arrangements established within the Shadow Edinburgh Health and Social Care Partnership will be reviewed in light of the legislation and guidance, in order to determine whether any new professional committees need to be established.

7.3.5 The Parties will ensure that the draft Strategic Plan is sent to the following senior professionals in order to secure their input and advice:

- (a) NHS Lothian Medical Director
- (b) NHS Lothian Nurse Director

- (c) NHS Lothian Director of Public Health & Health Policy
- (d) NHS Lothian Allied Health Professions Director
- (e) Chief Social Work Officer.

7.3.6 The engagement of CEC professionals will not be limited to social work staff, but will extend to related professionals within social care, such as, but not exclusively, occupational therapists, home care and social care staff.

7.3.7 The approach to locality planning and delivery including the arrangements for clinical and social care governance will be developed through the strategic planning process in a collaborative manner and determined by the IJB.

#### **7.4 External scrutiny of clinical and care functions**

7.4.1 NHS Lothian seeks assurance for internal control/quality through its Healthcare Governance Committee, which includes reports by external bodies such as Healthcare Improvement Scotland.

7.4.2 The Care Inspectorate (Social Care and Social Work Improvement Scotland) regulates, inspects and supports improvement of adult and children's social work and social care, and its reports feed into CEC's system of governance.

7.4.3 The IJB will consequently be informed of any relevant issues from external scrutiny, as a consequence of drawing from the systems already established by the Parties.

#### **7.5 Service User and Carer Feedback**

7.5.1 The Parties have a range of systems already in place to capture and respond to service users' experience, and these will continue to be used as the Parties implement the directions of the IJB.

7.5.2 As part of the wider strategic planning process, (particularly the joint strategic needs assessment process) and the performance management framework, existing work streams on (a) standards and quality improvement and (b) service user feedback will be used to inform how the IJB can address the integration delivery principles and deliver on the Outcomes.

## **8. Chief Officer**

- 8.1 The Chief Officer will be appointed by the IJB; he/she will be employed by one of the Parties and will be seconded to the IJB. .
- 8.2 The Chief Officer will provide a strategic leadership role as principal advisor to and officer of the IJB and will also have an appropriate role in the operational delivery of services by the Parties in the carrying out of integration functions. The Chief Officer will lead the development and delivery of the Strategic Plan for the IJB and will be accountable to the IJB for the content of the directions issued to the Parties by the IJB and for monitoring compliance by the Parties with directions issued by the IJB. The Chief Officer's role in operational delivery will represent an important means by which closer integration of services, in accordance with the integration delivery principles specified in the Act, can be achieved.
- 8.3 The Chief Officer will be jointly managed by both Parties and there will be a joint process for regular performance reviews, support and supervision with both Chief Executives. Annual objectives for the Chief Officer will be agreed and the process will involve the chairperson of the IJB agreeing objectives with the Chief Officer relevant to his/her role with the IJB as well as the Chief Executives of CEC and NHS Lothian. The Chief Officer's performance against those annual objectives will be monitored through an agreed performance management framework established by the Party which is his/her employer.
- 8.4 If an interim replacement for the Chief Officer of the IJB is required, in accordance with a request from the IJB to that effect (on the grounds that the Chief Officer is absent or otherwise unable to carry out his/her functions), the Chief Executives of CEC and NHS Lothian will initiate a joint selection process, identifying a list of potential replacements; and selection of a suitable candidate will be undertaken against a set of agreed criteria. The interim replacement will be employed by one of the Parties and will be seconded to the IJB on an interim basis.

## **9. Workforce**

- 9.1 A human resources and organisational development working group established by the Parties has prepared a work plan for integrating the health and social care workforce in Edinburgh. This group includes NHS Lothian partnership representatives and trade union representatives from CEC. The work plan guiding the work of the group includes a number of work streams, two of which focus on the implementation of an integrated senior management model and an organisational development plan respectively.

- 9.2 The organisational development plan, agreed between the Parties, is currently being implemented. This is a comprehensive plan which covers staff communication, staff engagement, staff and team development, leadership development and the training needs for those staff members who will be responsible for managing integrated teams. In particular, it includes procurement of team and leadership development programmes.
- 9.3 A workforce plan will be developed for the IJB to support the implementation of the Strategic Plan. The workforce plan will take into account the workforce supply and demand challenges that will need to be addressed in order to be able to implement the Strategic Plan.
- 9.4 Both the organisational development plan and workforce plan will be finalised following completion of the first Strategic Plan and will be refreshed annually to ensure that they take account of the Strategic Plan and the development needs of staff engaged in the delivery of integrated functions.
- 9.5 The Lothian-wide work plan for 2014 / 2015 guiding the group referred to in Section 9.1 is already agreed by the Parties. It will be reviewed in April 2015 and annually thereafter.

## **10. Finance**

### **10.1 Financial Governance**

#### ***Appointment of a Chief Finance Officer***

- 10.1.1 The IJB will make arrangements for the proper administration of its financial affairs. This will include the appointment of a Chief Finance Officer with this responsibility.
- 10.1.2 The IJB will have regard to the current CIPFA guidance on the role of the chief financial officer in local government when appointing to this finance role. A job description will be developed with due regard to Scottish Government guidance in terms of financial functions.
- 10.1.3 The Chief Finance Officer will be employed by CEC or NHS Lothian and seconded to the IJB.
- 10.1.4 In the event that the Chief Finance Officer position is vacant, the Chief Officer shall secure, through agreement with both the CEC Section 95 officer and the NHS Lothian Director of Finance, an appropriate interim dedicated resource to discharge the role.

### ***Financial Management of the IJB***

10.1.5 The IJB will determine its own internal financial governance arrangements; and the Chief Finance Officer will be responsive to the decisions of the IJB, and the principles of financial governance set out in this Scheme.

### ***Principles of Financial Governance***

10.1.6 The following principles of financial governance shall apply:

- (a) The Parties have agreed to establish the IJB as a “joint operation” as defined by IFRS 11;
- (b) The Parties will work together in a spirit of openness and transparency.

### ***Financial Governance***

10.1.7 CEC and NHS Lothian agree to the establishment of an IJB Budget (as defined in Section 1 of the Scheme). The Chief Officer will manage the IJB Budget. .

10.1.8 The Parties are required to implement the directions of the IJB in carrying out a delegated function in line with the Strategic Plan, provided that the costs incurred by the relevant Party in implementing a direction shall be met in full by the IJB.

10.1.9 The Parties will apply their established systems of financial governance to the payments they receive from the IJB. The NHS Lothian Accountable Officer and the CEC Section 95 Officer have legally defined responsibilities and accountability for the financial governance of their respective bodies.

10.1.10 The Chief Officer in his/her operational role within NHS Lothian and CEC is responsible for the financial management of any Operational Budget, and is accountable for this to the NHS Lothian Chief Executive and CEC Section 95 officer.

10.1.11 The IJB will develop its own financial regulations. The Chief Finance Officer will periodically review these financial regulations and present any proposed changes to the IJB for its approval.

10.1.12 CEC will host the IJB financial accounts and will be responsible for recording the IJB financial transactions through its existing financial systems, including the ability to establish reserves.

10.1.13 The IJB's Chief Finance Officer will be responsible for preparing the IJB's accounts and ensuring compliance with statutory reporting requirements as a body under the relevant legislation.

10.1.14 The IJB's Chief Finance Officer will also be responsible for preparing a medium-term financial plan to be incorporated into the Strategic Plan. The IJB's Chief Finance Officer will also be responsible for preparing the annual financial statement that the IJB must publish under Section 39 of the Act, which sets out what the IJB intends to spend in implementation of the Strategic Plan.

10.1.15 The Chief Finance Officer will be responsible for producing finance reports to the IJB, ensuring that those reports are comprehensive.

10.1.16 The Chief Finance Officer will liaise closely with the CEC Section 95 officer and the NHS Lothian Director of Finance and their teams in order to discharge all aspects of his/her role. Section 6 of the Scheme sets out the process the Parties will undertake to determine how professional, technical and administrative services (including, without limitation, finance support) will be provided to the IJB.

## **10.2 Payments to the IJB (made under Section 1(3) (e) of the Act)**

10.2.1 The Parties will agree annually a schedule of payments (covering their respective calculated payments for the financial year in accordance with the Strategic Plan) to the IJB . This schedule of payments will be agreed within the first 30 working days of each new financial year.

10.2.2 It is expected that the net difference between payments into and out from the IJB will result in a balancing payment between CEC and NHS Lothian which reflects the effect of the directions of the IJB in accordance with the Strategic Plan.

### ***Payments to the IJB***

10.2.3 The Parties will apply their respective financial planning processes to arrive at a core baseline Operational Budget for each function delegated to the IJB; this will be used to calculate their respective payments to the IJB for the financial year in question.

### ***Hosted Services***

10.2.4 Some of the functions that will be delegated by NHS Lothian to all four Lothian IJBs are currently provided as part of a single Lothian-wide service, (referred to below as “**Hosted Services**”). As such there is not currently a separately identifiable budget for Hosted Services allocated to each local authority area.

10.2.5 In order to identify the core baseline budget for each of the Hosted Services in each local authority area, NHS Lothian will initially determine which of the following methodologies is the most appropriate in representing the distribution of the delivery of those services in each local authority area and their respective populations at a given point in time:

- (a) local activity and cost data for each service within each local authority area;
- (b) population distribution across the local authority areas;
- (c) patient level activity and cost data;
- (d) historically applied and recognised percentages.

10.2.6 CEC and the IJB will review the proposals from NHS Lothian referred to above, as part of a due diligence process, and the core baseline budget will be jointly agreed.

### ***Due Diligence***

10.2.7 The Parties will share information on the financial performance over the previous two financial years of the functions which will be delegated to the IJB (and the services associated with the carrying out of those functions). This will allow the Parties to



undertake appropriate reviews to gain assurance that the services are currently being delivered sustainably within approved resources, and that the anticipated initial payments will be sufficient for the IJB to fund the carrying out of the functions delegated to it.

10.2.8 Where a Party reasonably believes in relation to a function which it is to delegate to the IJB, that there is potential for the actual expenditure to vary significantly from projections, it will identify that function, and will ensure that sufficient information is provided to the IJB so that it may build up its working knowledge of the issues, and focus on those functions within their systems for risk management and financial reporting..

10.2.9 This process of due diligence will be applied in future years, and this will be informed by, amongst other things, the intelligence within the financial performance reports covering all integration functions that the IJB will routinely receive.

#### ***Determining the schedules for the Initial Payments***

10.2.10 The CEC Section 95 officer and the NHS Lothian Director of Finance are responsible for preparing the draft schedules for their respective constituent authorities setting out the initial payment to the IJB. The CEC Section 95 officer and the NHS Lothian Director of Finance will consult with the Chief Officer (designate) and officers of both Parties as part of this process.

10.2.11 The CEC Section 95 officer and the NHS Lothian Director of Finance will each prepare a draft schedule outlining the detail and total value of the proposed payment from each Party, and the underlying methodology and assumptions behind that payment. These draft schedules will identify any amounts included in the payments that are subject to separate legislation or subject to restrictions stipulated by third party funders. The draft schedules will also contain the detail and total value of set aside resources for hospital services, made under Section 1(3) (d) of the Act.

10.2.12 The CEC Section 95 officer and the NHS Lothian Director of Finance will refer the draft schedules to the Chief Officer (designate) so that he/she has an opportunity to formally consider it. This draft schedule must be agreed by the Director of Finance of NHS Lothian, the CEC Section 95 Officer and the Chief Officer (designate).The CEC Section 95 officer and the NHS Lothian Director of Finance will thereafter present the

final draft schedules to CEC and NHS Lothian for approval in line with their respective governance procedures.

***Subsequent Section 1(3) (e) Payments to the IJB***

10.2.13 The calculation of payments in each subsequent financial year will follow the same processes as are described above for the initial payment subject to the following:

- (a) the starting position will be the payments made to the IJB in the previous financial year;
- (b) the Parties will then review the payments, having due regard to any known factors that could affect core baseline budgets, available funding, their existing commitments, the results of their own financial planning processes, the previous year's budgetary performance for the functions delegated to the IJB, the IJB's performance report for the previous year, and the content of the Strategic Plan;
- (c) the Parties will also have due regard to the impact of any service re-design activities that have been a direct consequence of IJB directions;
- (d) the Parties will engage the IJB, Chief Officer, and Chief Financial Officer in the process of calculating payments for subsequent financial years through the following arrangements:
  - both Parties will provide indicative three year allocations to the IJB, subject to annual approval through their respective budget setting processes;
  - the Parties will ensure that the Chief Officer and Chief Finance Officer are actively engaged in their financial planning processes. The Chief Officer will be expected to feed into the respective planning processes of the Parties with any intelligence that is relevant, such as the effect of previous directions on activity and expenditure, and projected changes in activity and expenditure.

***The set-aside of resources for use by the IJB under Section 1(3) (d) of the Act***

10.2.14 In addition to the Section 1(3)(e) payments to the IJB, NHS Lothian will identify a set aside budget for delegated functions in large hospitals. The set aside budget for delegated hospital services will be based on an apportionment of the relevant NHS Lothian budgets for the delegated hospital services (excluding overheads) based on historic activity within the respective areas served by the Lothian IJBs.

*[Note: Further work requires to be carried out to determine, in light of guidance from the Scottish Government, how the set-aside arrangements will work in practice. The Parties will therefore develop this part of the Scheme at a later date].*

***Process to agree payments from the IJB to NHS Lothian and CEC***

10.2.15 The IJB will determine and approve, in accordance with the Strategic Plan, the payments to the Parties which will accompany its directions to them for carrying out functions delegated to the IJB. The Party receiving a direction from the IJB shall implement it to the extent its costs in doing so are met by the payment received from the IJB.

10.2.16 Each direction from the IJB to a Party 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:

- (a) the delegated function(s) that are to be carried out;
- (b) the outcomes to be delivered for those delegated functions;
- (c) the amount of and method of determining the payment to be made, in respect of the carrying out of the delegated functions.

10.2.17 Once issued, directions can be amended by a subsequent direction by the IJB.

10.2.18 Where amounts paid to the IJB are subject to separate legislation or subject to restrictions stipulated by third party funders, the IJB must reflect these amounts in full, in determining the level of the payments to be made to CEC and/or NHS Lothian in

respect of the carrying out of the relevant function or functions. However, the IJB is not precluded from increasing the resource allocated to the relevant services.

### **10.3 Financial Reporting to the IJB**

10.3.1 Budgetary control and monitoring reports (in such form as the IJB may reasonably request from time to time) will be provided to the IJB as and when reasonably requires. The reports will set out the financial position and outturn forecast against the payments by the IJB to each Party in respect of the carrying out of integration functions and against the amount set aside by NHS Lothian for hospital services. These reports will present the actual and forecast positions of expenditure for delegated functions and highlight any financial risks and areas where further action is required by the IJB to manage its budget pressures.

10.3.2 NHS Lothian will provide reports to the IJB on the set aside budget.

*[Note: Further work requires to be carried out to determine, in light of guidance from the Scottish Government, how the set-aside arrangements will work in practice. The Parties will therefore further develop this part of the Scheme at a later date.]*

10.3.3 Through the process of reviewing the professional, technical and administrative support to the IJB, and the development of accounting for the set-aside, the Parties will devise a sustainable model to support financial reporting to the new IJB. Until that model is in place, both Parties will provide the required information from their respective finance systems, and this will be co-ordinated and consolidated by the Chief Finance Officer to provide reports to the IJB on all the IJB's integration functions.

### **10.4 Process for addressing variance in the spending of the Integration Joint Board**

#### ***Treatment of forecast over- and under-spends against the Operational Budget***

10.4.1 The Integration Joint Board is required to break even each financial year.

10.4.2 The Parties will ensure that their respective budget monitoring and management systems will be applied to monitor and manage their expenditure in relation to delivery of integrated functions in accordance with directions issued to them by the IJB.

10.4.3 Where financial monitoring reports indicate that an overspend is forecast on the Operational Budget, the Chief Officer should take immediate and appropriate remedial action to endeavour to prevent the overspend.

10.4.4 In the event that such remedial action will not prevent the overspend, the IJB Chief Finance Officer will develop a proposed recovery plan to address the forecast overspend. The Chief Finance Officer will then present that recovery plan to the IJB as soon as practically possible. The recovery plan will be subject to the approval of the IJB.

***Additional Payments by the Parties to the Integration Joint Board***

10.4.5 Where such a recovery plan is projected to be unsuccessful and an overspend occurs at the financial year end, and there are insufficient reserves to meet the overspend, then the Parties may consider making additional payments to the Integration Joint Board.

10.4.6 NHS Lothian and CEC will consider making interim funding available on a basis to be agreed between the Parties, with repayment in future years on the basis of the revised recovery plan by the IJB. If the revised plan cannot be agreed by NHS Lothian and CEC or is not approved by the IJB, the dispute resolution arrangements provided for in the Scheme will apply.

***Underspends***

10.4.7 In the event of an underspend in the Operational Budgets, the following shall apply:

- (a) if the underspend is fortuitous, and unrelated to any direction by the IJB, then the underspend shall be returned to the relevant Party (through a corresponding reduction in the payments to be made by it to the IJB);
- (b) the IJB will retain all other underspends.

10.4.8 The IJB can hold reserves to the extent agreed by the IJB and both Parties.

### ***Treatment of variations against the amounts set aside for use by the IJB***

*[Note: Further work requires to be carried out to determine, in light of guidance from the Scottish Government, how the set-aside arrangements will work in practice. The Parties will therefore develop this part of the Scheme at a later date]*

10.4.9 The Parties agree that the primary responsibility for providing the capacity required in terms of the relevant direction issued by the IJB within the resources allocated by the IJB (being the amount of the set-aside amount specified in the relevant direction) shall lie with NHS Lothian.

### **10.5 Redetermination of payments (made under Section 1(3)(e)) to the IJB**

10.5.1 Redeterminations of payments made by CEC and NHS Lothian for the carrying out of integration functions would apply under the following circumstances:

- (a) additional one off funding is provided to a Party or Parties by the Scottish Government, or some other body, for expenditure in respect of a function delegated to the IJB;
- (b) the Parties agree that an adjustment to the payment is required to reflect changes in demand and/or activity levels;
- (c) there is a transfer of resources between set aside hospital resources and integrated budget resources delegated to the IJB and managed by the Chief Officer.

10.5.2 The Parties and the IJB would be required to agree to the redetermination. The Parties would apply the process used to calculate the payment to the IJB to the affected functions and the Strategic Plan would require to be amended accordingly.

10.5.3 Any agreed additional payments shall be added to the schedule of payments for the financial year in question.

## **10.6 Redetermination of payments (made under Section 1(3)(d)) to the IJB**

*[Note: Further work requires to be carried out to determine, in light of guidance from the Scottish Government, how the set-aside arrangements will work in practice.. The Parties will therefore develop this part of the Scheme at a later date.]*

## **10.7 Use of Capital Assets**

10.7.1 The IJB, NHS Lothian and CEC will identify all capital assets which will be used in the delivery of the Strategic Plan. Further to this, the associated revenue and future capital liabilities will be identified for each asset

10.7.2 An agreement will be developed which specifies and regulates the use (in relation to integration functions) of capital assets belonging to one Party by the other Party, or jointly by both Parties. A similar agreement will specify and regulate the use by the IJB, in the carrying out of its functions, of assets belonging to the Parties. These agreements will be updated as required.

10.7.3 Changes in use of capital assets will flow from the Strategic Plan and the directions issued by the IJB to the Parties. The Strategic Plan process will outline any implications or requirements for capital assets.

10.7.4 The Parties will ensure that their respective capital asset planning arrangements take due cognisance of the above implications and requirements.

10.7.5 The Chief Officer of the IJB will consult with CEC and NHS Lothian to identify the specific need for improvements/changes to assets owned by each which may be required in connection with the carrying out of integration functions. Where a capital investment need is identified, the Chief Officer will present a business case to CEC and NHS Lothian to make best use of existing resources and develop capital programmes. Any business case will set out how the investment will meet the strategic objectives set out in the Strategic Plan and identify the ongoing revenue costs/savings associated with implementation of the proposals.

10.7.6 The IJB, CEC and NHS Lothian will work together to ensure that assets required in connection with the carrying out of integration functions are used as effectively as

possible and in compliance with the relevant legislation relating to use of public assets.

## **10.8 Audit and Financial Statements**

### ***Internal audit***

10.8.1 It is the responsibility of the IJB to establish adequate and proportionate internal audit arrangements for review of the adequacy of the arrangements for risk management, governance and control of the delegated resources. This will include determining who will provide the internal audit service for the IJB.

10.8.2 The head of the internal audit service will report to the Chief Officer and the IJB on the annual audit plan, delivery of the plan and recommendations; and will provide an annual internal audit report including the audit opinion. These matters will be overseen by the Audit and Risk Committee established by the IJB.

### ***Financial Statements and External Audit***

10.8.3 The legislation requires that the IJB is subject to the audit and accounts provisions of a body under Section 106 of the Local Government (Scotland) Act 1973 (Section 13). This will require audited annual accounts to be prepared with the reporting requirements specified in the relevant legislation and regulations (Section 12 of the Local Government in Scotland Act 2003 and regulations under section 105 of the Local Government (Scotland) Act 1973). These will be proportionate to the limited number of transactions of the IJB whilst complying with the requirements for transparency and true and fair reporting in the public sector.

10.8.4 The reporting requirements for the annual accounts are set out in legislation and regulations and will be prepared following the CIPFA Local Authority Code of Practice.

10.8.5 The Chief Finance Officer of the IJB will supply any information required to support the development of the year-end financial statements and annual report for both NHS Lothian and CEC. Both NHS Lothian and CEC will need to disclose their interest in the IJB as a joint arrangement under IAS 31 and comply in their annual accounts with



IAS 27. Both NHS Lothian and CEC will report the IJB as a related party under IAS 24.

10.8.6 The IJB financial statements must be completed to meet the audit and publication timetable specified in the regulations (Regulations under section 105 of the Local Government (Scotland) Act 1973).

10.8.7 The Accounts Commission will appoint the external auditors to the IJB.

10.8.8 The financial statements will be signed in line with the governance arrangements for the IJB and as specified in the Regulations under section 105 of the Local Government (Scotland) Act 1973.

10.8.9 In all forms of audit, the Parties are expected to comply with related requests and to aid the audit process.

## **11. Participation and Engagement**

### **11.1 Consultation in the development of the Scheme**

*[Note: This section describes the approach which is proposed to be taken in relation to participation and engagement; the final form of the Scheme, in the form submitted to the Scottish Government, will make reference to the detail of the approached participation and engagement which has taken place prior to that point in time]*

11.1.1 The development of the Scheme has involved consultation with:

- (a) the groups represented on the shadow strategic planning group (the "SPG") established by the Parties as set out in the regulations issued under the Act. (further details of such groups being set out in Annex 3);
- (b) the service user and carer members of the shadow Integration Joint Board established by the parties, and their wider networks; and
- (c) groups and fora that represent a combination of staff (practitioners and clinicians) service users and service providers (further details of such groups and fora being set out in Annex 4).

11.1.2 A collaborative four stage approach has been adopted:

- (d) Stage 1 – officers of NHS Lothian and CEC produce a first draft in line with guidance
- (e) Stage 2 – review content for the Scheme with the SPG
- (f) Stage 3 – undertake wider consultation, following the framework for ‘Consulting Edinburgh’ with the groups and fora referred to in Section 11.1.1(c) above.
- (g) Stage 4 – produce second draft for approval by NHS Lothian and CEC and submit to Scottish Government.

## **11.2 Participation and engagement strategy in relation to decisions about carrying out integration functions**

11.2.1 The Parties will support the IJB to produce a strategy for engagement with, and participation by members of the public, representative groups or other organisations in relation to decisions about the carrying out of integration functions as set out in this Section 11.2.

11.2.2 A draft of the IJB’s participation and engagement strategy has been produced for consultation with key stakeholders, and with the public, using the ‘Consulting Edinburgh’ electronic portal.

11.2.3 The draft participation and engagement strategy will be amended following consultation and submitted to the IJB for approval.

11.2.4 The ongoing development of the participation and engagement strategy will be achieved using a collaborative approach, involving the membership of the strategic planning group.

11.2.5 It is envisaged that the strategic planning group will take both an advisory and active role in the undertaking of future participation and engagement around the implications of service development and re-design.

11.2.6 The action plan for delivering the strategy will be reviewed at regular meetings of the strategic planning group and if necessary, changes will be recommended for approval by the IJB, to take account of new audiences or service design and re-design.

11.2.7 CEC's 'Consulting Edinburgh' framework will be used for engagement; and NHS Lothian has contributed to the development of the consultation framework that supports the approach and has agreed to follow the framework and make use of the consultation hub (a digital platform) to launch future consultations. Further details are set out in Annex 5

## **12. Information-Sharing and Data Handling**

- 12.1 There is an existing and long standing Pan-Lothian and Borders General Information Sharing Protocol, to which NHS Lothian, CEC, East Lothian Council, Midlothian Council and West Lothian Council are all signatories. This is currently being reviewed by a sub group on behalf of the Pan-Lothian Data Sharing Partnership for any minor modifications required to comply with the Integration Scheme Regulations. The final Protocol, following consultation, will be recommended for signature by Chief Executives of the respective organisations, and the Chief Officers of the Lothian IJBs, on behalf of the Data Sharing Partnership.
- 12.2 The Pan-Lothian and Borders General Information Sharing Protocol update will be agreed by 31 March 2015.
- 12.3 Procedures for sharing information between the relevant local authority, Health Board, and, where applicable, the relevant integration joint board will be drafted as Information Sharing Agreements and procedure documents. This will be undertaken by a sub group on behalf of the Pan-Lothian Data Sharing Partnership, who will detail the more granular purposes, requirements, procedures and agreements for each of the Lothian IJBs and the functions respectively delegated to them.
- 12.4 CEC and NHS Lothian will continue to be Data Controller for their respective records (electronic and manual), and will detail arrangements where these are jointly controlled by agreement. The IJB may require to be Data Controller for personal data if it is not held by either CEC or NHS Lothian.
- 12.5 Procedures will be based on a single point of governance model. This allows data and resources to be shared; with governance standards and their implementation being the separate responsibility of each organisation.
- 12.6 Following consultation, Information Sharing Protocols and procedure documents will be recommended for signature by the Chief Executives of the respective organisations, and the Chief Officers of the Lothian IJBs.

12.7 Once established, Agreements and Procedures will be reviewed bi-annually by the sub group of the Pan-Lothian Data Sharing Partnership, or more frequently if required.

12.8 The Information Sharing Agreements and procedures applicable to the IJB will be agreed by 31 March 2015.

### **13. Complaints**

13.1 People who use services provided in pursuance of integration functions will continue to make complaints either to CEC or to NHS Lothian. Both organisations have in place well publicised, clearly explained and accessible complaints procedures that allow for timely recourse and signpost independent advocacy services, where relevant.

13.2 Complaints about the delivery of an integration function may be made to, and dealt with by, the Party which is required to deliver that function in pursuance of a direction issued by the IJB or (in a case where the direction is issued in respect of a given function to both constituent authorities jointly) to either of those constituent authorities.

13.3 When responding to complaints about a service which is delivered jointly, officers responsible for complaints handling within CEC and NHS Lothian will discuss the complaint, and identify which elements that are the subject of the complaint will be investigated by each Party, and agree which Party will prepare the written response at the end of the investigation. Failing agreement, the Chief Officer acting reasonably will decide which of the constituent authorities should prepare the written response and this will be signed by the Chief Officer.

13.4 Any investigation will be carried out in line with the published complaints procedure of the relevant Party, mindful of any statutory complaints handling arrangements that might apply. It will be the responsibility of the Party preparing the written response to ensure that the complainant is correctly signposted to the options open to him/her to progress his/her complaint if he/she remains dissatisfied.

13.5 On completion of the complaints procedure, complaints about specific social work functions may be referred to a Complaints Review Committee (CRC) at the complainant's request and thereafter the Scottish Public Services Ombudsman. At the end of the complaints process, complainants are entitled to take their complaint to the Scottish Public Services Ombudsman. Where appropriate, complainants will also be advised of their right to complain to the Care Inspectorate.

- 13.6 The Chief Officer will have an overview of complaints made about integration services and subsequent responses. Complaints about integration services will be recorded and reported to the Chief Officer on a regular and agreed basis. Regular trend analysis of complaints and complaint outcomes will also be carried out as part of a wider quality assurance framework.
- 13.7 Responsibility for responding to Scottish Public Services Ombudsman complaints enquiries will lie with the Party that dealt with the original complaint.
- 13.8 Where necessary, officers responsible for complaints handling within CEC and NHS Lothian will work together to provide a full response to any Scottish Public Services Ombudsman enquiry that covers both health and social care functions.
- 13.9 All independent contractors involved in the delivery of services associated with an integration function will be required to have a complaints procedure. Where complaints are received about the service provided by an independent contractor, the relevant Party will refer the complaint to the independent contractor in the first instance, either providing contact details or by passing the complaint on, depending on the preferred approach of the complainant. Complaints received about independent contractors will be recorded for contract monitoring purposes.
- 13.10 Complaints about the IJB should be made to the chairperson of the IJB. Staff within CEC and NHS Lothian will support the Chief Officer with the investigation and written response to the complainant, which will be signed by the Chief Officer.
- 13.11 The Parties will work together to align their complaints processes in as far as reasonably practicable and put in place a joint working protocol to adopt an integrated approach to complaints handling, so that the process of making a complaint is as simple as possible for service users and complaints about services associated with integration functions are responded to clearly, thoroughly and timeously. This joint working protocol will identify the lead organisation for each service which is delivered jointly and will include the contact details of officers responsible for managing any complaints received.

#### **14. Claims Handling, Liability & Indemnity**

- 14.1 The liability of either or both Parties and/or the IJB in respect of any claim that may be made by a third party in respect of any matter connected with the carrying out of integration functions shall be determined in accordance with principles of common law and/or any applicable legislation.

14.2 Where a claim by a third party is received by either of the Parties or the IJB in respect of any matter connected with the carrying out of integration functions (the body receiving such a claim being referred to as the “**Claim Recipient**”), the Claim Recipient, shall, as soon as reasonably practicable, notify any other body or bodies (being either or both Parties and/or the IJB) which the Claim Recipient considers (acting reasonably) could be held to be liable (whether wholly or partly) in relation to the claim were it to be upheld by the court; and the Claim Recipient shall (subject to clause 14.3):

14.2.1 provide that other body or bodies with all such information in relation to the claim as is available to the Claim Recipient;

14.2.2 allow that other body or bodies (and/or its or their insurers) to conduct the defence of the claim, subject to that other body or bodies indemnifying the Claim Recipient in relation to any loss or liability (including legal expenses on a solicitor-client basis, and any award of expenses) which the Claim Recipient might thereby incur; and

14.2.3 avoid taking any step which could prejudice the defence of the claim without the prior written consent of that other body or bodies.

14.3 Where a Claim Recipient considers (acting reasonably) that it itself could be held to be liable along with another Party and/or the IJB in relation to the relevant claim were it to be upheld by the court, the Claim Recipient and the other body or bodies (and/or their respective insurers) shall co-operate with each other in respect of the defence of the claim, and the indemnity by the other body or bodies referred to in Section 14.2 shall not apply.

## **15. Risk Management**

### **15.1 IJB**

15.1.1 The IJB will develop and agree a risk management strategy in relation to carrying out of integration functions by 31<sup>st</sup> March 2016 or the integration start date if sooner.

15.1.2 The risk management strategy will include:-

- (a) a statement of the IJB’s risk appetite and associated tolerance measures;
- (b) a description of how the system of risk management will work in practice, including the procedures for identification, classification, recording and reporting of risk, and the respective roles of the IJB and its officers. This will explain how the output from the risk management systems within NHS Lothian

and CEC will inform the IJB's system of risk management as well as ensuring that any risks associated with proposals from the Strategic Plan are captured, assessed and managed appropriately and shared with NHS Lothian and CEC;

- (c) a description of how the IJB system of risk management is informed by other related systems of NHS Lothian and CEC, such as complaints management, health & safety, adverse events management, emergency planning and business resilience;
- (d) an agreement between NHS Lothian and CEC on the resources to be made available to support risk management in the IJB and how this will work;
- (e) a description of how risk will be monitored by the IJB, the framework for reporting and frequency.

15.1.3 A group of officers from across NHS Lothian and CEC have worked collaboratively to develop a first draft risk register for the IJB. The IJB will update and amend its risk register should there be any emerging themes/risks which have a bearing on its activities.

## **15.2 NHS Lothian and CEC**

15.2.1 Both Parties will continue to apply their existing policies and systems for risk management, and will implement any required restructuring of their risk registers to recognise the creation of the IJB.

15.2.2 NHS Lothian covers four local authority areas, and there will be some services delivered by NHS Lothian under directions from the Lothian IJBs which one operational Chief Officer will manage on a Lothian-wide basis. The identification and management of risk for those Hosted Services will reflect the differing directions of the Lothian IJBs.

## **16. Dispute Resolution**

16.1 In the event of any dispute between the Parties in relation to any matter provided for in this Scheme or any of the duties, obligations, rights or powers imposed or conferred upon them by the Act (a "**Dispute**"), the provisions of this section 16 will apply.

- 16.2 Either Party shall give to the other written notice of the Dispute, setting out its nature and full particulars (a "**Dispute Notice**"), together with relevant supporting documents. The Party giving the Dispute Notice will provide a copy to the chairperson of the IJB. On service of the Dispute Notice, the Chief Executives of the Parties shall meet and attempt in good faith to resolve the Dispute.
- 16.3 Where the matter remains unresolved within [NUMBER] days of service of the Dispute Notice, the Parties shall inform the chairperson of the IJB and may proceed to mediation with a view to resolving the issue. Any mediator will be external to the Parties and will be identified and appointed with the agreement of the Chair of NHS Lothian and the Leader of CEC and failing agreement within [NUMBER] days shall be nominated by the Centre for Effective Dispute Resolution (CEDR) on the request of either Party.
- 16.4 The mediation will start not later than [NUMBER] days after the date of appointment of the mediator.
- 16.5 The Parties agree that the cost of the mediator will be met equally by NHS Lothian and CEC. The timeframe to resolve the issue will be agreed prior to the start of the mediation process by the Chair of NHS Lothian and the Leader of CEC and notified to the chairperson of the IJB.
- 16.6 The chairperson of the IJB will inform Scottish Ministers in writing of the Dispute and agreed timeframe to conclude the mediation process.
- 16.7 Where following mediation the issue remains unresolved, the chairperson of the IJB shall notify Scottish Ministers in writing. Scottish Ministers may then advise the Parties how to proceed.
- 16.8 The Parties shall cooperate with each other to mitigate any adverse effect on service delivery pending resolution of the Dispute.
- 16.9 Nothing in this Scheme shall prevent either of the Parties from seeking any legal remedy or from commencing or continuing court proceedings in relation to the Dispute.



## Annex 1

### Part 1A

#### Functions delegated by NHS Lothian to the IJB

Set out below is the list of functions that are to be delegated by NHS Lothian to the IJB, as required by the Public Bodies (Joint Working) (Prescribed Health Board Functions) (Scotland) Regulations 2014 (being the functions prescribed for the purposes of section 1(8) of the Act)

<i>Column A</i>	<i>Column B</i>
<b>The National Health Service (Scotland) Act 1978</b>	
All functions of Health Boards conferred by, or by virtue of, the National Health Service (Scotland) Act 1978	Except functions conferred by or by virtue of— section 2(7) (Health Boards);  section 2CA <sup>(1)</sup> (Functions of Health Boards outside Scotland); section 9 (local consultative committees); section 17A (NHS Contracts); section 17C (personal medical or dental services);  section 17I <sup>(2)</sup> (use of accommodation); section 17J (Health Boards' power to enter into general medical services contracts); section 28A (remuneration for Part II services); section 38 <sup>(3)</sup> (care of mothers and young children);  section 38A <sup>(4)</sup> (breastfeeding);

<sup>(1)</sup> Section 2CA was inserted by S.S.I. 2010/283, regulation 3(2).

<sup>(2)</sup> Section 17I was inserted by the National Health Service (Primary Care) Act 1997 (c.46), Schedule 2 and amended by the Primary Medical Services (Scotland) Act 2004 (asp 1), section 4. The functions of the Scottish Ministers under section 17I are conferred on Health Boards by virtue of S.I. 1991/570, as amended by S.S.I. 2006/132.

<sup>(3)</sup> The functions of the Secretary of State under section 38 are conferred on Health Boards by virtue of S.I. 1991/570.

<sup>(4)</sup> Section 38A was inserted by the Breastfeeding etc (Scotland) Act 2005 (asp 1), section 4. The functions of the Scottish Ministers under section 38A are conferred on Health Boards by virtue of S.I. 1991/570 as amended by S.S.I. 2006/132.

section 39<sup>(5)</sup> (medical and dental inspection, supervision and treatment of pupils and young persons);

section 48 (provision of residential and practice accommodation);

section 55<sup>(6)</sup> (hospital accommodation on part payment);

section 57 (accommodation and services for private patients);

section 64 (permission for use of facilities in private practice);

section 75A<sup>(7)</sup> (remission and repayment of charges and payment of travelling expenses);

section 75B<sup>(8)</sup> (reimbursement of the cost of services provided in another EEA state);

section 75BA<sup>(9)</sup> (reimbursement of the cost of services provided in another EEA state where expenditure is incurred on or after 25 October 2013);

section 79 (purchase of land and moveable property);

section 82<sup>(10)</sup> (use and administration of certain endowments and other property held by Health Boards);

section 83<sup>(11)</sup> (power of Health Boards and local health councils to hold property on trust);

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<sup>(5)</sup> Section 39 was relevantly amended by the Self Governing Schools etc (Scotland) Act 1989 (c.39) Schedule 11; the Health and Medicines Act 1988 (c.49) section 10 and Schedule 3 and the Standards in Scotland's Schools Act 2000 (asp 6), schedule 3.

<sup>(6)</sup> Section 55 was amended by the Health and Medicines Act 1988 (c.49), section 7(9) and Schedule 3 and the National Health Service and Community Care Act 1990 (c.19), Schedule 9. The functions of the Secretary of State under section 55 are conferred on Health Boards by virtue of S.I. 1991/570.

<sup>(7)</sup> Section 75A was inserted by the Social Security Act 1988 (c.7), section 14, and relevantly amended by S.S.I. 2010/283. The functions of the Scottish Ministers in respect of the payment of expenses under section 75A are conferred on Health Boards by S.S.I. 1991/570.

<sup>(8)</sup> Section 75B was inserted by S.S.I. 2010/283, regulation 3(3) and amended by S.S.I. 2013/177.

<sup>(9)</sup> Section 75BA was inserted by S.S.I. 2013/292, regulation 8(4).

<sup>(10)</sup> Section 82 was amended by the Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 7) section 1(2) and the National Health Service Reform (Scotland) Act 2004 (asp 7), schedule 2.

<sup>(11)</sup> There are amendments to section 83 not relevant to the exercise of a Health Board's functions under that section.

section 84A<sup>(12)</sup> (power to raise money, etc., by appeals, collections etc.);

section 86 (accounts of Health Boards and the Agency);

section 88 (payment of allowances and remuneration to members of certain bodies connected with the health services);

section 98<sup>(13)</sup> (charges in respect of non-residents);

and

paragraphs 4, 5, 11A and 13 of Schedule 1 to the Act (Health Boards);

and functions conferred by—

The National Health Service (Charges to Overseas Visitors) (Scotland) Regulations 1989<sup>(14)</sup>;

NHS Lothians (Membership and Procedure) (Scotland) Regulations 2001/302;

The National Health Service (Clinical Negligence and Other Risks Indemnity Scheme) (Scotland) Regulations 2000/54;

The National Health Services (Primary Medical Services Performers Lists) (Scotland) Regulations 2004/114;

The National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2004;

The National Health Service (Discipline Committees) Regulations 2006/330;

The National Health Service (General Ophthalmic Services) (Scotland) Regulations 2006/135;

The National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009/183;

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<sup>(12)</sup> Section 84A was inserted by the Health Services Act 1980 (c.53), section 5(2). There are no amendments to section 84A which are relevant to the exercise of a Health Board's functions.

<sup>(13)</sup> Section 98 was amended by the Health and Medicines Act 1988 (c.49), section 7. The functions of the Secretary of State under section 98 in respect of the making, recovering, determination and calculation of charges in accordance with regulations made under that section is conferred on Health Boards by virtue of S.S.I. 1991/570.

<sup>(14)</sup> S.I. 1989/364, as amended by S.I. 1992/411; S.I. 1994/1770; S.S.I. 2004/369; S.S.I. 2005/455; S.S.I. 2005/572 S.S.I. 2006/141; S.S.I. 2008/290; S.S.I. 2011/25 and S.S.I. 2013/177.

The National Health Service (General Dental Services) (Scotland) Regulations 2010/205; and  
The National Health Service (Free Prescription and Charges for Drugs and Appliances) (Scotland) Regulations 2011/55<sup>(15)</sup>.

**Disabled Persons (Services, Consultation and Representation) Act 1986**

Section 7

(Persons discharged from hospital)

**Community Care and Health (Scotland) Act 2002**

All functions of Health Boards  
conferred by, or by virtue of, the  
Community Care and Health  
(Scotland) Act 2002.

**Mental Health (Care and Treatment) (Scotland) Act 2003**

All functions of Health Boards  
conferred by, or by virtue of, the  
Mental Health (Care and Treatment)  
(Scotland) Act 2003.

Except functions conferred by—

section 22 (Approved medical practitioners);

section 34 (Inquiries under section 33: co-operation)<sup>(16)</sup>;

section 38 (Duties on hospital managers: examination notification etc.)<sup>(17)</sup>;

section 46 (Hospital managers' duties: notification)<sup>(18)</sup>;

section 124 (Transfer to other hospital);

section 228 (Request for assessment of needs: duty on local authorities and Health Boards);

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<sup>(15)</sup> S.S.I. 2011/55, to which there are amendments not relevant to the exercise of a Health Board's functions.

<sup>(16)</sup> There are amendments to section 34 not relevant to the exercise of a Health Board's functions under that section.

<sup>(17)</sup> Section 329(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003 provides a definition of "managers" relevant to the functions of Health Boards under that Act.

<sup>(18)</sup> Section 46 is amended by S.S.I. 2005/465.

section 230 (Appointment of a patient's responsible medical officer);

section 260 (Provision of information to patients);

section 264 (Detention in conditions of excessive security: state hospitals);

section 267 (Orders under sections 264 to 266: recall);

section 281<sup>(19)</sup> (Correspondence of certain persons detained in hospital);

and functions conferred by—

The Mental Health (Safety and Security) (Scotland) Regulations 2005<sup>(20)</sup>;

The Mental Health (Cross Border transfer: patients subject to detention requirement or otherwise in hospital) (Scotland) Regulations 2005<sup>(21)</sup>;

The Mental Health (Use of Telephones) (Scotland) Regulations 2005<sup>(22)</sup>; and

The Mental Health (England and Wales Cross border transfer: patients subject to detention requirement or otherwise in hospital) (Scotland) Regulations 2008<sup>(23)</sup>.

#### **Education (Additional Support for Learning) (Scotland) Act 2004**

Section 23

(other agencies etc. to help in exercise of functions under this Act)

#### **Public Services Reform (Scotland) Act 2010**

All functions of Health Boards

Except functions conferred by—

conferred by, or by virtue of, the Public

section 31(Public functions: duties to provide

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<sup>(19)</sup> Section 281 is amended by S.S.I. 2011/211.

<sup>(20)</sup> S.S.I. 2005/464, to which there are amendments not relevant to the exercise of the functions of a Health Board. Section 329(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003 provides a definition of "managers" relevant to the functions of Health Boards.

<sup>(21)</sup> S.S.I. 2005/467. Section 329(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003 provides a definition of "managers" relevant to the functions of Health Boards.

<sup>(22)</sup> S.S.I. 2005/468. Section 329(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003 provides a definition of "managers" relevant to the functions of Health Boards.

<sup>(23)</sup> S.S.I. 2008/356. Section 329(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003 provides a definition of "managers" relevant to the functions of Health Boards.

Services Reform (Scotland) Act 2010 information on certain expenditure etc.); and  
section 32 (Public functions: duty to provide  
information on exercise of functions).

**Patient Rights (Scotland) Act 2011**

All functions of Health Boards conferred by, or by virtue of, the Patient Rights (Scotland) Act 2011	Except functions conferred by The Patient Rights (Complaints Procedure and Consequential Provisions) (Scotland) Regulations 2012/36 <sup>(24)</sup> .
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But in each case, subject to the restrictions set out in article 3(3) of the Public Bodies (Joint Working) (Prescribed Health Board Functions) (Scotland) Regulations 2014

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<sup>(24)</sup> S.S.I. 2012/36. Section 5(2) of the Patient Rights (Scotland) Act 2011 (asp 5) provides a definition of “relevant NHS body” relevant to the exercise of a Health Board’s functions.

## **Annex 1**

### **Part 1B**

#### **Additional functions delegated by NHS Lothian to the IJB**

Set out below is the list of additional functions that are to be delegated by NHS Lothian to the IJB

The functions exercisable in relation to the following health services as they relate to provision for people under the age of 18:

- (a) Primary Medical Services and General Medical Services (including GP Pharmaceutical services)
- (b) General Dental Services, Public Dental Services and the services provided by the Edinburgh Dental Institute
- (c) General Ophthalmic Services
- (d) General Pharmaceutical Services
- (e) Out of Hours Primary Medical Services
- (f) Services for people with Learning Disabilities.

## Annex 1

### Part 2

#### Services associated with the functions delegated by NHS Lothian to the IJB

Set out below is an illustrative description of the services associated with the functions delegated by NHS Lothian to the IJB as specified in Parts 1A and 1B of Annex 1.

#### Interpretation of this Part 2 of Annex 1

In this Part 2—

“Allied Health Professional” means a person registered as an allied health professional with the Health Professions Council;

“general medical practitioner” means a medical practitioner whose name is included in the General Practitioner Register kept by the General Medical Council;

“general medical services contract” means a contract under section 17J of the National Health Service (Scotland) Act 1978;

“hospital” has the meaning given by section 108(1) of the National Health Service (Scotland) Act 1978;

“inpatient hospital services” means any health care service provided to a patient who has been admitted to a hospital and is required to remain in that hospital overnight, but does not include any secure forensic mental health services;

“out of hours period” has the same meaning as in regulation 2 of the National Health Service (General Medical Services Contracts) (Scotland) Regulations 2004<sup>(25)</sup>; and

“the public dental service” means services provided by dentists and dental staff employed by a health board under the public dental service contract.

- a) Accident and Emergency services provided in a hospital.
- b) Inpatient hospital services relating to the following branches of medicine—
  - (a) general medicine;
  - (b) geriatric medicine;
  - (c) rehabilitation medicine;
  - (d) respiratory medicine; and

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<sup>(25)</sup> S.S.I. 2004/115.



- (e) psychiatry of learning disability.
- c)** Palliative care services provided in a hospital.
- d)** Inpatient hospital services provided by General Medical Practitioners.
- e)** Services provided in a hospital in relation to an addiction or dependence on any substance.
- f)** Mental health services provided in a hospital, except secure forensic mental health services.
- g)** District nursing services.
- h)** Services provided outwith a hospital in relation to an addiction or dependence on any substance.
- i)** Services provided by allied health professionals in an outpatient department, clinic, or outwith a hospital.
- j)** The public dental service.
- k)** Primary medical services provided under a general medical services contract, and arrangements for the provision of services made under section 17C of the National Health Service (Scotland) Act 1978, or an arrangement made in pursuance of section 2C(2) of the National Health Service (Scotland) Act 1978<sup>(26)</sup>.
- l)** General dental services provided under arrangements made in pursuance of section 25 of the National Health (Scotland) Act 1978<sup>(27)</sup>.
- m)** Ophthalmic services provided under arrangements made in pursuance of section 17AA or section 26 of the National Health Service (Scotland) Act 1978<sup>(28)</sup>.
- n)** Pharmaceutical services\* and additional pharmaceutical services provided under arrangements made in pursuance of sections 27 and 27A of the National Health Service (Scotland) Act 1978<sup>(29)</sup>.
- o)** Services providing primary medical services to patients during the out-of-hours period.

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<sup>(26)</sup> Section 2C was inserted by the Primary Medical Services (Scotland) Act 2004 (asp 1), section 1(2) and relevantly amended by the National Health Service Reform (Scotland) Act 2004 (asp 7), schedule 1, and the Tobacco and Primary Medical Services (Scotland) Act 2010 (asp 3), section 37.

<sup>(27)</sup> Section 25 was relevantly amended by the Smoking, Health and Social Care (Scotland) Act 2005 (asp 13), section 15.

<sup>(28)</sup> Section 17AA was inserted by the National Health Service (Primary Care) Act 1997 (c.46), section 31(2) and relevantly amended by the Smoking, Health and Social Care (Scotland) Act 2005 (asp 13), section 25. Section 26 was relevantly amended by the Health and Social Security Act 1984 (c.48), Schedule 1, and the Smoking, Health and Social Care (Scotland) Act 2005 (asp 13) section 13.

<sup>(29)</sup> Section 27 was relevantly amended by the Health Services Act 1990 (c.53), section 20; the National Health Service and Community Care Act 1990 (c.19), Schedule 9; the Medicinal Products: Prescription by Nurses etc. Act 1992 (c.28), section 3; the National Health Service and Community Care Act 1997 (c.46), Schedule 2 and the Health and Social Care Act 2001 (c.15), section 44.

- p) Services provided outwith a hospital in relation to geriatric medicine.
- q) Palliative care services provided outwith a hospital.
- r) Community learning disability services.
- s) Mental health services provided outwith a hospital.
- t) Continence services provided outwith a hospital.
- u) Kidney dialysis services provided outwith a hospital.
- v) Services provided by health professionals that aim to promote public health.

In each case, subject to the exceptions set out in Parts 1A and 1B of Annex 1 and to the restrictions set out in article 3(3) of the Public Bodies (Joint Working) (Prescribed Health Board Functions) (Scotland) Regulations 2014.

In addition to the services (as set out above) associated with the carrying out of functions that must be delegated, NHS Lothian has chosen to delegate the following health services as they relate to provision for people under the age of 18:

- a) Primary Medical Services and General Medical Services (including GP Pharmaceutical services)
- b) General Dental Services, Public Dental Services and the Edinburgh Dental Institute
- c) General Ophthalmic Services
- d) General Pharmaceutical Services
- e) Out of Hours Primary Medical Services
- f) Learning Disabilities

## Annex 2

### Part 1

#### Functions delegated by CEC to the IJB

Set out below is the list of functions that are to be delegated by CEC to the IJB (being the functions prescribed for the purposes of section 1(7) of the Public Bodies (Joint Working) (Scotland) Act 2014)

<i>Column A</i>	<i>Column B</i>
<i>Enactment conferring function</i>	<i>Limitation</i>
<b>National Assistance Act 1948<sup>(30)</sup></b>	
Section 48 (Duty of councils to provide temporary protection for property of persons admitted to hospitals etc.)	
<b>The Disabled Persons (Employment) Act 1958<sup>(31)</sup></b>	
Section 3 (Provision of sheltered employment by local authorities)	
<b>The Social Work (Scotland) Act 1968<sup>(32)</sup></b>	

<sup>(30)</sup> 1948 c.29; section 48 was amended by the Local Government etc. (Scotland) Act 1994 (c.39), Schedule 39, paragraph 31(4) and the Adult Support and Protection (Scotland) Act 2007 (asp 10) schedule 2 paragraph 1.

<sup>(31)</sup> 1958 c.33; section 3 was amended by the Local Government Act 1972 (c.70), section 195(6); the Local Government (Scotland) Act 1973 (c.65), Schedule 27; the National Health Service (Scotland) Act 1978 (c.70), schedule 23; the Local Government Act 1985 (c.51), Schedule 17; the Local Government (Wales) Act 1994 (c.19), Schedules 10 and 18; the Local Government etc. (Scotland) Act 1994 (c.49), Schedule 13; and the National Health Service (Consequential Provisions) Act 2006 (c.43), Schedule 1.

<sup>(32)</sup> 1968 c.49; section 1 was relevantly amended by the National Health Service (Scotland) Act 1972 (c.58), schedule 7; the Children Act 1989 (c.41), Schedule 15; the National Health Service and Community Care Act 1990 (c.19) ("the 1990 Act"), schedule 10; S.S.I. 2005/486 and S.S.I. 2013/211. Section 4 was amended by the 1990 Act, Schedule 9, the Children (Scotland) Act 1995 (c.36) ("the 1995 Act"), schedule 4; the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13) ("the 2003 Act"), schedule 4; and S.S.I. 2013/211. Section 10 was relevantly amended by the Children Act 1975 (c.72), Schedule 2; the Local Government etc. (Scotland) Act 1994 (c.39), Schedule 13; the Regulation of Care (Scotland) Act 2001 (asp 8) ("the 2001 Act") schedule 3; S.S.I. 2010/21 and S.S.I. 2011/211. Section 12 was relevantly amended by the 1990 Act, section 66 and Schedule 9; the 1995 Act, Schedule 4; and the Immigration and Asylum Act 1999 (c.33), section 120(2). Section 12A was inserted by the 1990 Act, section 55, and amended by the Carers (Recognition and Services) Act 1995 (c.12), section 2(3) and the Community Care and Health (Scotland) Act 2002 (asp 5) ("the 2002 Act"), sections 8 and 9(1). Section 12AZA was inserted by the Social Care (Self Directed Support) (Scotland) Act 2013 (asp 1), section 17. Section 12AA and 12AB were inserted by the 2002 Act, section 9(2). Section 13 was amended by the Community Care (Direct Payments) Act 1996 (c.30), section 5. Section 13ZA was inserted by the Adult Support and Protection (Scotland) Act 2007 (asp

<i>Column A</i>	<i>Column B</i>
<i>Enactment conferring function</i>	<i>Limitation</i>
Section 1 (Local authorities for the administration of the Act.)	So far as it is exercisable in relation to another integration function.
Section 4 (Provisions relating to performance of functions by local authorities.)	So far as it is exercisable in relation to another integration function.
Section 8 (Research.)	So far as it is exercisable in relation to another integration function.
Section 10 (Financial and other assistance to voluntary organisations etc. for social work.)	So far as it is exercisable in relation to another integration function.
Section 12 (General social welfare services of local authorities.)	Except in so far as it is exercisable in relation to the provision of housing support services.
Section 12A (Duty of local authorities to assess needs.)	So far as it is exercisable in relation to another integration function.
Section 12AZA (Assessments under section 12A - assistance)	So far as it is exercisable in relation to another integration function.
Section 12AA (Assessment of ability to provide care.)	
Section 12AB (Duty of local authority to provide information to carer.)	

10), section 64. Section 13A was inserted by the 1990 Act, section 56 and amended by the Immigration and Asylum Act 1999 (c.33), section 102(2); the 2001 Act, section 72 and schedule 3; the 2002 Act, schedule 2 and by S.S.I. 2011/211. Section 13B was inserted by the 1990 Act sections 56 and 67(2) and amended by the Immigration and Asylum Act 1999 (c.33), section 120(3). Section 14 was amended by the Health Services and Public Health Act 1968 (c.46), sections 13, 44 and 45; the National Health Service (Scotland) Act 1972 (c.58), schedule 7; the Guardianship Act 1973 (c.29), section 11(5); the Health and Social Service and Social Security Adjudications Act 1983 (c.41), schedule 10 and the 1990 Act, schedule 9. Section 28 was amended by the Social Security Act 1986 (c.50), Schedule 11 and the 1995 Act, schedule 4. Section 29 was amended by the 1995 Act, schedule 4. Section 59 was amended by the 1990 Act, schedule 9; the 2001 Act, section 72(c); the 2003 Act, section 25(4) and schedule 4 and by S.S.I. 2013/211.

<i>Column A</i>	<i>Column B</i>
<i>Enactment conferring function</i>	<i>Limitation</i>
Section 13 (Power of local authorities to assist persons in need in disposal of produce of their work.)	
Section 13ZA (Provision of services to incapable adults.)	So far as it is exercisable in relation to another integration function.
Section 13A (Residential accommodation with nursing.)	
Section 13B (Provision of care or aftercare.)	
Section 14 (Home help and laundry facilities.)	
Section 28 (Burial or cremation of the dead.)	So far as it is exercisable in relation to persons cared for or assisted under another integration function.
Section 29 (Power of local authority to defray expenses of parent, etc., visiting persons or attending funerals.)	
Section 59 (Provision of residential and other establishments by local authorities and maximum period for repayment of sums borrowed for such provision.)	So far as it is exercisable in relation to another integration function.
<b>The Local Government and Planning (Scotland) Act 1982<sup>(33)</sup></b>	
Section 24(1) (The provision of gardening assistance for the disabled and the elderly.)	
<b>Disabled Persons (Services, Consultation and Representation) Act 1986<sup>(34)</sup></b>	
Section 2 (Rights of authorised representatives of disabled persons.)	

<sup>(33)</sup> 1982 c.43; section 24(1) was amended by the Local Government etc. (Scotland) Act 1994 (c.39), schedule 13.

<sup>(34)</sup> 1986 c.33. There are amendments to sections 2 and 7 which are not relevant to the exercise of a local authority's functions under those sections.

<i>Column A</i>	<i>Column B</i>
<i>Enactment conferring function</i>	<i>Limitation</i>
Section 3 (Assessment by local authorities of needs of disabled persons.)	
Section 7 (Persons discharged from hospital.)	In respect of the assessment of need for any services provided under functions contained in welfare enactments within the meaning of section 16 and which have been delegated.
Section 8 (Duty of local authority to take into account abilities of carer.)	In respect of the assessment of need for any services provided under functions contained in welfare enactments (within the meaning set out in section 16 of that Act) which are integration functions.
<b>The Adults with Incapacity (Scotland) Act 2000<sup>(35)</sup></b>	
Section 10 (Functions of local authorities.)	
Section 12 (Investigations.)	
Section 37 (Residents whose affairs may be managed.)	Only in relation to residents of establishments which are managed under integration functions.
Section 39 (Matters which may be managed.)	Only in relation to residents of establishments which are managed under integration functions.
Section 41 (Duties and functions of managers of authorised establishment.)	Only in relation to residents of establishments which are managed under integration functions
Section 42 (Authorisation of named manager to withdraw from resident's account.)	Only in relation to residents of establishments which are managed under integration functions
Section 43 (Statement of resident's affairs.)	Only in relation to residents of establishments which are managed under integration

<sup>(35)</sup> 2000 asp 4; section 12 was amended by the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), schedule 5(1). Section 37 was amended by S.S.I. 2005/465. Section 39 was amended by the Adult Support and Protection (Scotland) Act 2007 (asp 10), schedule 1 and by S.S.I. 2013/137. Section 41 was amended by S.S.I. 2005/465; the Adult Support and Protection (Scotland) Act 2007 (asp 10), schedule 1 and S.S.I. 2013/137. Section 45 was amended by the Regulation of Care (Scotland) Act 2001 (asp 8), Schedule 3.

<i>Column A</i>	<i>Column B</i>
<i>Enactment conferring function</i>	<i>Limitation</i>
	functions
Section 44 (Resident ceasing to be resident of authorised establishment.)	Only in relation to residents of establishments which are managed under integration functions
Section 45 (Appeal, revocation etc.)	Only in relation to residents of establishments which are managed under integration functions
<b>The Housing (Scotland) Act 2001<sup>(36)</sup></b>	
Section 92 (Assistance to a registered for housing purposes.)	Only in so far as it relates to an aid or adaptation.
<b>The Community Care and Health (Scotland) Act 2002<sup>(37)</sup></b>	
Section 5 (Local authority arrangements for of residential accommodation outwith Scotland.)	
Section 14 (Payments by local authorities towards expenditure by NHS bodies on prescribed functions.)	
<b>The Mental Health (Care and Treatment) (Scotland) Act 2003<sup>(38)</sup></b>	
Section 17 (Duties of Scottish Ministers, local authorities and others as respects Commission.)	
Section 25 (Care and support services etc.)	Except in so far as it is exercisable in relation to the provision of housing support services.
Section 26 (Services designed to promote well-being and social development.)	Except in so far as it is exercisable in relation to the provision of housing support services.

<sup>(36)</sup> 2001 asp 10; section 92 was amended by the Housing (Scotland) Act 2006 (asp 1), schedule 7.

<sup>(37)</sup> 2002 asp 5.

<sup>(38)</sup> 2003 asp 13; section 17 was amended by the Public Services Reform (Scotland) Act 2010 (asp 8), section 111(4), and schedules 14 and 17, and by the Police and Fire Reform (Scotland) Act 2012 (asp 8), schedule 7. Section 25 was amended by S.S.I. 2011/211. Section 34 was amended by the Public Services Reform (Scotland) Act 2010 (asp 8), schedules 14 and 17.

<i>Column A</i>	<i>Column B</i>
<i>Enactment conferring function</i>	<i>Limitation</i>
Section 27 (Assistance with travel.)	Except in so far as it is exercisable in relation to the provision of housing support services.
Section 33 (Duty to inquire.)	
Section 34 (Inquiries under section 33: Co-operation.)	
Section 228 (Request for assessment of needs: duty on local authorities and Health Boards.)	
Section 259 (Advocacy.)	
<b>The Housing (Scotland) Act 2006<sup>(39)</sup></b>	
Section 71(1)(b) (Assistance for housing purposes.)	Only in so far as it relates to an aid or adaptation.
<b>The Adult Support and Protection (Scotland) Act 2007<sup>(40)</sup></b>	
Section 4 (Council's duty to make inquiries.)	
Section 5 (Co-operation.)	
Section 6 (Duty to consider importance of providing advocacy and other.)	
Section 11 (Assessment Orders.)	
Section 14 (Removal orders.)	
Section 18 (Protection of moved persons property.)	
Section 22 (Right to apply for a banning order.)	

<sup>(39)</sup> 2006 asp 1; section 71 was amended by the Housing (Scotland) Act 2010 (asp 17) section 151.

<sup>(40)</sup> 2007 asp 10; section 5 and section 42 were amended by the Public Services Reform (Scotland) Act 2010 (asp 8), schedules 14 and 17 and by the Police and Fire Reform (Scotland) Act 2012 (asp 8), schedule 7. Section 43 was amended by the Public Services Reform (Scotland) Act 2010 (asp 8), schedule 14.



<i>Column A</i>	<i>Column B</i>
<i>Enactment conferring function</i>	<i>Limitation</i>
Section 40 (Urgent cases.)	
Section 42 (Adult Protection Committees.)	
Section 43 (Membership.)	
<b>Social Care (Self-directed Support) (Scotland) Act 2013<sup>(41)</sup></b>	
Section 3 (Support for adult carers.)	Only in relation to assessments carried out under integration functions.
Section 5 (Choice of options: adults.)	
Section 6 (Choice of options under section 5: assistances.)	
Section 7 (Choice of options: adult carers.)	
Section 9 (Provision of information about self-directed support.)	
Section 11 (Local authority functions.)	
Section 12 (Eligibility for direct payment: review.)	
Section 13 (Further choice of options on material change of circumstances.)	Only in relation to a choice under section 5 or 7 of the Social Care (Self-directed Support) (Scotland) Act 2013 .
Section 16 (Misuse of direct payment: recovery.)	
Section 19 (Promotion of options for self-directed support.)	

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<sup>(41)</sup> 2013 asp 1.

Functions, conferred by virtue of enactments, prescribed for the purposes of section 1(7) of the Public Bodies (Joint Working) (Scotland) Act 2014

<i>Column A</i>	<i>Column B</i>
<i>Enactment conferring function</i>	<i>Limitation</i>
<b>The Community Care and Health (Scotland) Act 2002</b>	
Section 4 <sup>(42)</sup>	
The functions conferred by Regulation 2 of the Community Care (Additional Payments) (Scotland) Regulations 2002 <sup>(43)</sup>	

In each case, so far as the functions are exercisable in relation to persons of at least 18 years of age.

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<sup>(42)</sup> Section 4 was amended by the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), schedule 4 and the Adult Support and Protection (Scotland) Act 2007 (asp 10), section 62(3).

<sup>(43)</sup> S.S.I. 2002/265, as amended by S.S.I. 2005/445.

## **Annex 2**

### **Annex 2 Part 2**

#### **Services currently associated with the functions delegated by CEC to the IJB**

Set out below is an illustrative description of the services associated with the functions delegated by CEC to the IJB as specified in Part 1 of Annex 2.

Social work services for adults and older people  
Services and support for adults with physical disabilities and learning disabilities  
Mental health services  
Drug and alcohol services  
Adult protection and domestic abuse  
Carers support services  
Community care assessment teams  
Support services  
Care home services  
Adult placement services  
Health improvement services  
Housing support/aids and adaptation in so far as they relate to adult with social care needs  
Day services  
Local area co-ordination  
Respite provision  
Occupational therapy services  
Re-ablement services, equipment and telecare.

In each case, so far as the services are provided to persons of at least 18 years of age.

### Annex 3

#### Part 1: Shadow Strategic Planning Group Consultees

The list of individuals and their wider constituency consulted on the Scheme is as follows:

<b>Member</b>	<b>Wider constituency</b>
Health care member of the Professional Advisory Committee	Professional Advisory Committee
Social care member of Professional Advisory Committee	Professional Advisory Committee
Social care member of Professional Advisory Committee	Professional Advisory Committee
Non-voting service user rep from Shadow Partnership Board (health care)	Patients Council
Non-voting service user rep from Shadow Partnership Board (adult social care)	Network of service users and carers
Non-voting carer rep from Shadow Partnership Board (health)	Carers' network
Non-voting carer rep from Shadow Partnership Board (adult social care)	Carers' network
Officer or member of Scottish Care	Scottish Independent care providers
Representative from a third sector provider of non-commercial providers of health care	EVOC Named charities
Representative from a third sector provider of social care	Third sector providers of social care
Member of Edinburgh Affordable Housing Partnership	Edinburgh Affordable Housing Partnership
Rep of Third sector organisations carrying out activities related to health or social care	EVOC
Representative from one neighbourhood partnership in each locality	Neighbourhood Partnerships
Commercial providers of health care	Internet

## **Annex 4 List of Consultees**

### **Key Audience - Groups and Fora that represent a combination of staff, services users, service providers and Party governance arrangements**

All Council members

All Health Board members

Edinburgh Partnership Board

Shadow Health and Social Care Partnership

Edinburgh Alcohol and Drugs Partnership

Reducing Re-offending Partnership

#### **Providers:**

Mental Health and Substance Misuse services providers

Disability services providers

Care at Home providers

Care home providers

Care at Home Providers

Scottish Care

Coalition Care Providers

#### **Planning Fora and Groups:**

Joint Mental Health planning forum \*

Dementia Delivery Group

Older People's Management Group \*

Carer Support Hospital Discharge Steering Group

Carers strategic planning group \*

Planning and Commissioning Officers

Edinburgh (Learning Disability) Plan Advisory Group Health & Social Care \*

\*These groups also have service user representatives

#### **Service Users and Carers Groups: (please note that all of these groups may be involved in the planning of services)**

Autism Champions

Young Carers Action Group

VolunteerNet  
Edinburgh Carers Reference Group  
Carers Network  
Housing and Care Group  
Network/Core Group (for Personalisation) of service users and carers  
Mental Health & Wellbeing Forum  
Public Partnership Fora  
Edinburgh Partnership Equality Network  
LGBT Age Capacity

**Staff and Management Groups:**

General cascade briefing/email for all staff  
Departmental Joint Consultative Committee  
Council Partnership at work Forum  
NHS Lothian Partnership Forum  
Health & Social Care Senior Management Team  
Black and Minority Ethnic Workers Forum  
Discharge Hubs  
Social work sector and hospital teams managers  
Older People and Disabilities Managers  
Integrated Carers Team  
Mental Health Service Managers  
Criminal Justice Service Managers  
Quality and Standards Managers  
Business Development Managers  
Contracts Team  
Joint Consultative Forum/ DJCC/Trade Unions

Open staff meetings at key sites – RIE/WGH/AAH/Liberton  
Staff open sessions (perhaps one on each hospital site in Edinburgh)  
Offer to attend other sessions.

**Health Board and Council Governance:**

Acute Hospitals Committee  
General Practitioners Sub Committee  
Lothian Medical Committee  
CHP committees (e.g. Primary Care)  
NHS Lothian Finance and Resources Committee  
NHS Lothian Staff Governance Committee

NHS Lothian Healthcare Governance Committee  
NHS Lothian Strategic Planning Committee  
Council Finance and Resources Committee  
Council Health, Social Care and Housing Committee  
Council Education, Children and Families Committee  
Council Administration and opposition  
Governance Review and Best Value Committee (Audit)  
Internal Audit of Council and NHS Lothian  
Corporate Programme Office of Council – and relevant programmes e.g. BOLD

**Other External Audiences:**

Other Local Authorities in Lothian  
Criminal Justice Authority Board  
MSPs and MPs  
Community Planning Partnerships  
Scottish Government Health Department  
Third Sector via TSIs – EVOC, Compact  
External Audit of NHS Lothian and Council  
SSSC  
Care Commission  
Relevant professional clinical and care bodies

## Annex 5 Consultation framework – ‘Consulting Edinburgh’

### Main features of ‘Consulting Edinburgh’

Presents the Consultation Charter based on the principles of integrity, visibility, accessibility, transparency, disclosure, fair interpretation and publication.

- Provides ability to evidence how views have been sought.
- Supports staff on how to undertake consultations.
- Acts as a benchmark for consistency and robust process and practice
- Provides a definition of consultation that incorporates ‘deliberative dialogue, i.e. decisions are taken **after** consultation.
- Offers an e-learning tool for officers to assess if a consultation is appropriate.
- Guides officers and stakeholders who are launching a consultation through all stages, including: preparation; pre-consultation; consultation and post-consultation. (The guidance includes the development of a communications strategy.)
- Defines the roles and responsibilities of officers who provide communications, research, data collection and analysis, equalities and rights and stakeholder mapping support.

There is other guidance for:

- when the consultation is out-sourced to an external agency
- setting up a consultation on the electronic ‘hub’ (which is open to the public to view and interact with) monitoring and evaluation.



**DRAFT**  
**INTEGRATION SCHEME**  
**BETWEEN**  
**WEST LoTHIAN COUNCIL**  
**AND**  
**NHS LoTHIAN**

DRAFT

**Version 4**

## Integration Scheme

### Introduction

#### Aims and Outcomes of the Integration Scheme

The main purpose of integration is to improve the wellbeing of families, our communities and of people who use health and social care services, particularly those whose needs are complex and involve support from health and social care at the same time. The Integration Scheme is intended to achieve the National Health and Wellbeing Outcomes prescribed in Regulations under section 5(1) of the Public Bodies (Joint Working) (Scotland) Act 2014 (hereinafter referred to as “the Act”) namely:

1. People are able to look after and improve their own health and wellbeing and live in good health for longer.
2. People, including those with disabilities, long term conditions, or who are frail, are able to live, as far as reasonably practicable, independently and at home or in a homely setting in their community.
3. People who use health and social care services have positive experiences of those services, and have their dignity respected.
4. Health and social care services are centred on helping to maintain or improve the quality of life of service users.
5. Health and social care services contribute to reducing health inequalities.
6. People who provide unpaid care are supported to look after their own health and wellbeing, including to reduce any negative impact of their caring role on their own health and wellbeing.
7. People who use health and social care services are safe from harm.
8. People who work in health and social care services feel engaged with the work that they do, and are supported to continuously improve the information, support, care and treatment they provide.
9. Resources are used effectively and efficiently in the provision of health and social care services.

## 1.0 The Partners

### The Partners

- a. The West Lothian Council, a local authority constituted under the local Government etc. (Scotland) Act 1994 and having its headquarters at West Lothian Civic Centre, Howden South Road, Livingston, West Lothian EH54 6FF (“the Council”)
- and
- b. Lothian Health Board, established under section 2(1) of the National Health Service (Scotland) Act 1978 (operating as “NHS Lothian”) and having its principal offices at Waverley Gate, 2-4 Waterloo Place, Edinburgh (“NHS Lothian”)
- together referred to as “the Partners”

## 2.0 Definitions and Interpretation

“West Lothian Health and Social Care Partnership Board” is the Integration Joint Board referred to in the Act, and is referred to as “the Board”

“The Act” means the Public Bodies (Joint Working) (Scotland) Act 2014

“The Partners” means the Council and NHS Lothian

“The Scheme” means this Integration Scheme

“Integration functions” means the functions delegated by the Partners to the Integration Joint Board

“Integration Joint Board” or “IJB” means the Integration Joint Board to be established by Order under section 9 of the Act

“Director” means the “Chief Officer” as referred to in section 10 of the Act

“Finance Officer” and “Proper Officer” mean the officer appointed under the finance and audit requirements in section 13 of the Act and section 95 of the Local Government (Scotland) Act 1973

“IJB Budget” means the total funding available to the Board in the financial year as a consequence of

- The payment for delegated functions from NHS Lothian under section 1(3) (e) of the Act;
- The payment for delegated functions from the Council under section 1(3) (e) of the Act; and
- The amount “set aside” by NHS Lothian for use by the Board for functions carried out in a hospital and provided for the areas of two or more local authorities under section 1(3) (d) of the Act

“Operational Budget” means the amount of budget delegated by one of the Partners to one of their managers in a financial year in order to carry out defined functions or services

“Strategic Plan” means the plan which the Board is to be prepared and implemented in relation to the delegated provision of health and social care services to adults in accordance with section 29 of the Act.

“Outcomes” means the Health and Wellbeing outcomes prescribed in Regulations under section 5(1) of the Act and local outcomes set by the Partners and the Board, and set out in its Strategic Plan

In accordance with section 1(2) of the Act, the Partners have agreed that the integration model set out in section 1(4)(a) of the Act will be put in place for the West Lothian Partnership, namely the delegation of functions by the Partners to an Integration Joint Board, a body corporate that is to be established by Order under section 9 of the Act.

The Partners have decided to name that body corporate the “West Lothian Health and Social Care Partnership Board”.

This Scheme comes into effect on the date the Parliamentary Order to establish the Integration Joint Board comes into force and the integration functions shall be delegated with from 1 April 2016.

The Act calls for the Scheme to be reviewed by the Partners jointly within five years of it being approved. In addition, one or both of the Partners can require that the Scheme is reviewed at any time, and that review is to be carried out jointly by the Partners. When the Scheme is reviewed, the Partners will carry out a consultation process as required by the Act prior to obtaining approval.

### **3.0 Background**

This Scheme has been produced in accordance with the requirements of the Public Bodies (Joint Working) (Scotland) Act 2014.

The vision of the Partners is to enhance and develop the delivery of integrated health and social care services to the population of West Lothian with the intended impact of increasing the wellbeing of West Lothian citizens and reducing health inequalities across all communities in West Lothian.

In order to achieve this vision the Board will be strongly committed to the development of a preventative outcomes-based approach focusing on effective early interventions to tackle health and social inequalities.

The prescribed functions stated in the Act will be delegated. A list of functions delegated by the Partners to the Board, and of the services related to these functions, is appended at Annexes 1 and 2.

The work of the Board will be guided by the integration planning principles as stated in the Act and will contribute to the achievement of agreed health and wellbeing outcomes.

### **4.0 Local Governance Arrangements**

#### **Role of the Board**

The Board is to be established as a separate and distinct legal entity from the council and the health board. All three bodies have their own roles to play under this Scheme and to deliver on agreed outcomes – the Board’s role is strategic and the council’s and health board’s roles are operational.

The legislation contains many legal requirements in relation to the Board's membership and constitution, but allows for some voluntary additional rules to be put in place. Prior to the Board being established the Partners will cooperate in preparing a proposed constitutional structure and draft constitutional documents to assist the Board in meeting those legal requirements, and including any voluntary additional rules the Partners consider are appropriate. On its establishment, the Board will adopt that structure and those constitutional documents. It will not put in place any rules which depart from the requirements of the legislation or the other provisions of the Scheme.

The Board's task is to set the strategic direction for the delegated functions through the Strategic Plan developed by its Strategic Planning Group in accordance with the policy framework and direction set by the Partners, and which will inform the method of determining the budget contributions to be made by the Partners. It receives payments from the council and health board determined in accordance with this Scheme to enable it to deliver on local strategic outcomes. It gives directions to the council and health board as to how they must deliver the delegated functions in pursuit of the Strategic Plan and allocates payments to them to permit them to do that.

The link between the three bodies is the Board Director. The Director reports to the Board on strategy, finance and performance, and is responsible to the council and health board for the management and delivery of the delegated functions in accordance with this Scheme and in accordance with the directions issued by the Board to the Partners. As well as being responsible for the Strategic Planning Group and the Strategic Plan, the Board also requires to publish an annual financial statement and an annual performance report covering both service delivery and financial performance. The members of the Board therefore have a role to play in the strategic oversight and scrutiny of the performance by the council and the health board of their roles in implementing the Scheme, and will be able to carry out those responsibilities through receipt of regular and detailed reports on service and financial performance at Board meetings and advice about them at those meetings from the Director and other senior advisers.

As well as the requirement for the Partners to provide service and performance information to the Board, the Partners recognise that it is important that they are given assurance about the Board's performance of its roles and responsibilities in relation to its financial management of the budget to which the Partners will have contributed and its strategic role within the policy framework set by the Partners. Arrangements will therefore be put in place to ensure that regular monitoring reports are made by the Director to the Partners to assist them in that regard.

The Board will meet quarterly and the Partners shall provide or shall ensure the provision to the Board of the professional, technical, administrative and support services it reasonably requires. In the short term the Partners will maintain the arrangements already in place in relation to the provision of such services to the existing West Lothian Community Health and Care Partnership. In the period between approval of this Scheme and the formal delegation of functions, a sustainable longer-term solution will be developed by the Partners between themselves and in conjunction with the other integration authorities in the area of NHS Lothian. They shall identify the services and the extent of the support required

by the Board and shall consider and have regard to the needs of the Board as well as the continuing needs of the Partners (in particular concerning financial and budgetary constraints). The provision of services shall be kept under review by the Partners and the Board to ensure adequate provision to meet the Board's needs. The cost of that service provision will be agreed by the Partners as part of the process set out in the Scheme for budget-setting and the determination of the payments to be made by the Partners to the Board.

The Partners shall agree prior to the date when the Board is established the arrangements for the provision of those, and other similar services, and the way in which the cost of their provision will be borne amongst the Partners and the Board. After the establishment of the Board, the Board and the Partners shall keep under review the arrangements for the provision of support services and the costs of providing them, and shall agree amongst them such adjustments to the initial arrangements as are deemed by them to be appropriate to reflect experience and any changes in circumstances.

### **Board Membership**

Prior to the Board being constituted it will have the following members who will be appointed, will remain as members and will have their membership terminated in accordance with the Scheme and the governing legislation.

- There will be four West Lothian councillors as voting members on the Board, chosen by the council, and appointed for periods of three years unless their appointment is terminated earlier. The first period of appointment shall start on the date the Board is established. Members leaving their position at the end of a three year period are eligible for reappointment.
- There will be four health board members as voting members on the Board, chosen by the health board and appointed for periods of three years unless their appointment is terminated earlier. The first period of appointment shall start on the date the Board is established. Members leaving position at the end of a three year period are eligible for reappointment.
- The council's Chief Social Work Officer will be a non-voting member.
- A registered medical practitioner chosen by the health board from its list of primary medical services performers will be a non-voting member.
- A registered medical practitioner chosen by the health board and employed by it otherwise than in the delivery of primary medical services will be a non-voting member.
- A registered nurse chosen by the health board and who is either employed by it or by a person or body with which the health board has entered into a general medical services contract will be a non-voting member.
- The Director will be a non-voting member.
- The Finance Officer shall be a non-voting member.

After it is constituted, the Board shall have in addition the following as non-voting members:-

- Two members in respect of the combined staff; one representative from NHS Lothian and one representative from West Lothian Council engaged in the provision of the delegated services covered by the scheme

- One member in respect of third sector bodies carrying out activities in West Lothian in relation to health or social care
- One member in respect of service users in West Lothian.
- One member in respect of persons providing unpaid care in West Lothian.

The Board has the legal power to appoint additional members if it wishes to do so, but the Partners recognise the importance of close co-operation and working in securing the delivery of the outcomes. The Board will therefore consult with and take account of the views of the Partners before proceeding to consider making such additional appointments. Any such member appointed shall not be a councillor or a non-executive director of the health board.

### **Chair and Vice Chair**

The holders of the positions of Chair and Vice-Chair of the Board shall be filled from the voting members of the Board. Those appointed will hold their posts for periods of three years at a time. The holders of the posts will alternate between the partners every three years. For each three year appointing period, one of the partners shall nominate the Chair and the other the Vice-Chair, so that in any three-year period both posts are not held by Board members appointed by the same partner. (The regulations provide that the only exception to that is where the number of voting members appointed by the Partner nominating the current Chair falls to one or none. Until the number of appointed members is increased again, the other Partner must appoint the Chair on a temporary basis from its own voting Board members.

The first holder of the position of Board Chair shall be appointed by XXXX and the first holder of the position of Vice-Chair shall be appointed by ZZZZ.

The Vice-Chair assumes the role and responsibilities of the Chair in his absence or inability to act.

### **Corporate Governance**

Corporate governance is a means of showing that the Board is properly run. It refers to the systems by which the Board directs and controls its functions and relates to the community. Good corporate governance demonstrates to the Board's stakeholders and everyone interested in the delivery of the delegated services the Board is well organised to direct the delivery of the delegated services.

In accordance with principles of good corporate governance, on its establishment the Board shall adopt and abide by sets of rules and procedures designed to ensure that

- the Board has a defined and effective decision-making structure
- decisions are taken by a body or person with the power to do so
- decisions are taken with regard to all relevant factors and circumstances, including access to health and social care professional advice, financial advice, risk advice and legal advice
- decisions are taken in a way which is open and transparent and with public access available unless in defined and exceptional circumstances
- decisions are properly recorded
- structures are in place to ensure decisions are acted upon and implemented

- legislation, rules and professional practice standards and guidelines about financial reporting and accounting practice are applied
- systems are in place to ensure performance and legal and financial compliance are monitored and scrutinised and any failures reported to the Board.

These are systems and procedures such as financial controls, decision-making procedures, standing orders, the risk register, internal audit service and codes of conduct.

The Board will meet the requirements of good corporate governance by adopting standing orders and regulations which give effect to the requirements of the governing legislation, of this Scheme and of good corporate governance and good practice.

These will comprise regulations, systems and procedures such as financial controls, decision-making procedures, standing orders, risk register, internal audit and codes of conduct.

They will cover matters such as the creation of committees and sub-committees, and their membership and remits; the calling of meetings and giving notice of meetings and meeting papers to members and to the public; the regulation and conduct of meetings and the keeping of a record of proceedings; wide public access to meetings and meeting papers and records; delegation of powers and authority to the Director and other officers of the Board; roles and responsibilities of Chair, Vice-Chair and Board members; payments to Board members; financial and performance monitoring and reporting; the management of risk; internal audit arrangements; and relationship with external auditors.

The Board shall through those governance documents and rules establish a Risk, Audit and Governance Committee to take a pro-active approach to risk, audit and governance and to have a scrutiny and advisory role in relation to those matters. The remit of the Risk, Audit and Governance Committee and the arrangements for the way it is to be run are contained in Annex 3. It will not be a decision-making committee – it will have a scrutiny function and will be able to make recommendations to the Board about the matters within its remit. It will however be for the Board to accept or reject its recommendations and take whatever action it considers appropriate.

The functions of the committee will be carried out with the support of the partners, and the Board and the partners shall cooperate in ensuring the committee operates as an effective tool of corporate governance.

## **5.0 Delegation of Functions**

The functions that are to be delegated by the NHS Board to the Board are set out in Part 1 of Annex 1. The services to which these functions relate, which are currently provided by the NHS Board and which are to be integrated, are set out in Part 2 of Annex 1.

The functions that are to be delegated by the Council to the Board are set out in Part 1 of Annex 2. The services to which these functions relate, which are currently



provided by the Council and which are to be integrated, are set out in Part 2 of Annex 2.

## **6.0 Local Operational Delivery Arrangements**

### **Management Arrangements**

The Director shall be employed by one of the Partners and shall be seconded to the Board as its Chief Officer and a member of its staff. The Director will nevertheless be responsible and accountable to the Partners for the management and delivery of the integration functions in accordance with the directions issued by the Board to the Partners. He will be directed and managed by the Chief Executives of both Partners in that regard, and in relation to any additional responsibilities and duties he may hold in relation to council and health board functions and services that are not integrated. The Director is in addition responsible for

- ensuring that service delivery improves the agreed outcomes and any locally agreed responsibilities for health and wellbeing and for measuring, monitoring and reporting on the underpinning measures and indicators that will demonstrate progress.

The Director is responsible to the Board for the delivery of the Strategic Plan.

The Partners and the Director shall secure the operational delivery of the integration functions in accordance with the Directions issued to the Partners by the Board.

They shall put in place a management structure, headed by the Director, to manage the delivery of and performance by them of the integration functions, and to manage the staff employed by the partners in doing so. The integration services will be managed and delivered through close partnership working and protocols, and in conjunction with the health and social care and other functions of the Partners which are not integration functions.

The Partners shall provide the Board with information and performance management information required by it in terms of the powers conferred by the Act. The Partners recognise the importance of close co-operation and working in securing the delivery of the outcomes. The Board will therefore consult with and take account of the views of the Partners in decisions regarding the information to be provided and the dates and regularity to apply to its provision. The Director shall use that information to provide regular reports to the Board on at least a quarterly basis, and including sufficient information to ensure that the membership of the Board is able to adequately oversee the carrying-out of the integration functions by the Partners. The Board shall have the ability to request and receive such additional information in relation to service performance and financial performance as is reasonably required by them to perform that duty.

### **Staff**

The Board does not have the power to employ staff directly to carry out its functions.

There will be no transfer of staff between the council and the health board, or from the council or the health board to the Board, as a result of the approval and implementation of this Scheme. The staff of the Partners will work as colleagues in

the delivery of health and social care functions. They will be managed by the management team or teams to be put in place by the Partners, led by and under the direction and management of the Director.

### **Strategic Planning**

The Board will establish a strategic planning group to develop a strategic plan describing the strategic vision and direction for the Board over the next decade, within the policy framework and direction of the Partners. The Strategic Plan will detail the high level outcomes to be achieved, the performance management approach to monitor progress against these, and the strategic commissioning priorities for the Board. The strategic plan will provide a rolling three year action plan which will be reviewed and updated on an annual basis.

The Board is one of four Boards in the area of the Health Board and the Partners and the Board require to work in co-operation amongst themselves and with those other local authorities and Boards in preparing their Integration Schemes, in developing their respective Strategic Plans, in the delivery of the integration functions, and in the interaction with health and social care functions which are not integrated.

In developing this Scheme the Partners have taken into account the other Schemes being developed between the health board and other councils in its area, and the effects that all of those Schemes, and this one, may have on the others.

The Board also requires to have regard to the impact its Strategic Plan will have on services, facilities and resources to be used in relation to the Strategic Plans after their adoption or whilst they are being developed in those other areas. The Board shall, with the support and co-operation of the Partners, put in place a process and system to secure close collaboration, co-operation and the sharing of relevant information amongst the Chief Officers of the four integration authorities and amongst the Strategic Planning Groups of those integration authorities. The Board shall ensure, and the Partners shall ensure through the line management arrangements for the Director set out in the Scheme, that the Director provides information to the other integration authorities where the Board's Strategic Plan is likely to have a significant impact on the Strategic Plans of those other integration authorities and makes representations on behalf of the Board to those other integration authorities where the interests and objectives of the Board and its Strategic Plan may be affected by the Strategic Plans elsewhere .

In particular, the Board shall adopt reporting arrangements and processes which ensure that the strategic impacts on the other integration authorities and their strategic plans are brought to the attention of the Board in its decision making, both in regard to integration functions and other functions and services which are not integrated or delegated.

### **Procurement & Contracts**

The Board does not have specific powers in relation to public procurement, only the general power to enter into contracts for any goods and services it requires to enable it to carry out its statutory role and functions.

## Performance

The Partners shall develop and agree between them a list of the targets, measures and arrangement in relation to the performance of the integration functions, and shall do so prior to the constitution of the Board. After the constitution of the Board, the Partners shall agree with the Board and, prior to the date of delegation of functions, a final list of such targets, measures and arrangements and the frequency with which information about them is to be provided.

The targets, measures and arrangements developed and approved through that process, shall include and shall reflect targets, measures and arrangements in relation to health and social care functions which have not been integrated and which are to be taken into account by the Board in its preparation of the strategic plan.

In developing and agreeing those matters, the Partners shall build on the successful performance measuring, monitoring and reporting systems operated through the West Lothian Community Health and Care Partnership. They shall through officers of both Partners develop those systems further by identifying those performance indicators and outcomes for which responsibility shall pass to the Board in relation exclusively to integration functions and those for which responsibility shall be shared where they relate to both integration functions and functions and services which have not been integrated or delegated. Those outcomes and indicators will be refined to reflect and support the priorities set out in the Board's Strategic Plan. The Partners and the Board shall ensure that the systems, outcomes and indicators put in place are regularly reviewed, refreshed and updated to reflect changes to those priorities, to the Strategic Plan and other changes in circumstances.

The Board will be responsible for the development of a performance management approach to enable the Board to monitor progress against quality improvement and service delivery required to achieve the high level outcomes in the strategic plan. The approach to performance management will detail the suite of performance indicators to be used to monitor progress against the high level outcomes and will confirm the reporting arrangements on performance.

The Board will be a strategic partnership within West Lothian's community planning arrangements and the Board's Strategic Plan will support wider community planning processes, in particular in delivering the agreed outcomes as defined in the West Lothian Community Planning Partnership Single Outcome Agreement.

The high level outcomes will be set within the context of West Lothian's Community Plan and Single Outcome Agreement and reporting arrangements will include a commitment to report on progress against these to the Community Planning Partnership.

### 7.0 Clinical and Care Governance

The Board will be accountable for continually improving the quality of services and safeguarding high standards of care by creating an environment in which excellence in care will flourish. In doing so, it requires to have regard to the clinical and care governance in relation to the outcomes; in its decision making; in developing and approving its Strategic Plan; in the planning and delivery of services in the localities

to be established by the Board through its strategic plan; in framing the directions it will give to the Partners; and in monitoring and reporting on performance and delivery.

The Board will establish a framework and process, in consultation with the Partners, through which the arrangements for clinical and care governance will be applied to services provided in delivery of delegated functions.

The Board's framework and process will cover in particular education and training of Board members, and officers employed by the Partners; clinical audit; clinical effectiveness; research and development; openness; risk and information management. It will seek to:-

- ensure that users/clients/patients and their families receive high quality services which are person centred, safe, effective and efficient, in line with national and local health and social care standards, whether provided directly or in partnership or by commission
- set out how the quality of services is to be measured within and across pathways of service and make available information needed to monitor, review and improve service quality including inspection reports
- ensure decisions to redesign services to improve outcomes are inclusive and transparent
- ensure there is a system in place to identify and respond to failures and variation in service delivery
- ensure that arrangements are made by and through the Partners in relation to securing assurance on clinical and care governance matters relevant to services commissioned by the Partners from third parties.

The framework and process will include the establishment of a team with membership from Health and Social Care professionals employed by the Partners with accountability for continuous improvement in the quality of services and for safeguarding high standards of care. This team will be led by the Clinical Director (appointed by the health board) and the Chief Social Work Officer (appointed by the council) with responsibility for delivery and review of the framework and for ensuring activities designed to improve service quality and address local and national priorities are delivered for the delegated functions.

Clinical engagement will be achieved through professional leadership and representation on the Strategic Planning Group, on the Board and through the groups, committees and other bodies in the Partners' decision-making structures with responsibility for clinical and care governance matters in relation to both the integration functions and the functions and services which are not integrated or delegated. The Partners and the Board shall ensure that information, concerns and risks identified by them singly or together in relation to clinical and care governance are communicated to the others and that there is co-operation in addressing and resolving them.

The Board's membership shall include three registered healthcare professionals as members, who will be able to advise and guide the Board on care and governance matters, and the Chief Social Work Officer.

The Council is required by law to appoint a Chief Social Work Officer to oversee and make decisions in relation to specified social work services, some of which are delegated in relation to integration functions, and to report to and alert the council and councillors of any matters of professional concern in the management and delivery of those functions. They have a duty to make an annual report to the council in relation to the discharge of the role and responsibilities. The Chief Social Work Officer will be a non-voting member of the Board. The Board's Standing Orders and other constitutional documents shall make provision for the Chief Social Work Officer to be given the same rights and privileges of access to the Board and Board members as they have in relation to the council and councillors. They shall also be required to make an annual report to the Board in relation to the aspects of their position which relate to the delivery of the delegated functions. The Chief Social Work Officer will retain all of the statutory decision-making and advisory powers they are given by statute and guidance, and the Director shall not be entitled to countermand or over-rule any decisions or instructions given by the Chief Social Work Officer in carrying out that statutory role.

The health board has within its executive membership three clinical members and their roles include responsibility for the professional leadership and governance of the clinical workforce as well as clinical governance within NHS Lothian generally. The establishment of the Board and the delegation of functions and services does not change their roles in respect of professional leadership, and they remain the lead and accountable professionals for their respective professions.

The West Lothian Community Health and Care Partnership has as part of its arrangements in relation to clinical and care governance appointed a Clinical Director to advise and report to that Partnership Board. That arrangement will continue, with the Clinical Director being appointed by NHS Lothian to that role. The Board's Standing Orders and other constitutional documents shall ensure that the Clinical Director is given the same rights and privileges of access as are to be afforded to the Chief Social Work Officer. The Clinical Director shall also be required to make an annual report to the Board in relation to the aspects of their position which relate to the delivery of the delegated functions.

The Clinical Director and Chief Social Work Officer will provide regular reports and professional advice to the Board, to its Risk Audit and Governance Committee, and to the Strategic Planning Group in addition to reporting into the committees established by the Partners in relation to risk, audit and governance matters.

All of these clinical and care professionals and Board members will be expected by the Partners to play a lead role in communicating with and having regard to their duties to the Partners whilst discharging their role as a member of the Board; and communicating with and having regard to the interests of the Board whilst discharging their duties as professionals employed by the Partners.

The presence of the four clinical and care professionals on the Board, and the rights of access to the Board to be afforded to the Chief Social Work Officer and the Clinical Director, shall ensure that the deliberations of the Board are informed by appropriate professional advice.

The Board's Standing Orders shall include a process to be followed in the event that the Board seeks to disregard the professional advice it receives in relation to clinical

and care governance in relation to its decisions, directions and Strategic Plan. Upon the Chair of the Board being notified or becoming aware of any such intention, he shall refer the issue to the Director and to the Chief Executives of the partners to address, and the dispute resolution procedure in this Scheme shall, if necessary, be implemented.

## **8.0 Director**

### **Appointment of the Director**

The Director will be appointed to the post by the Board as required by the Act, but to reflect the significance of the post to the Partners and the Director's duties and responsibilities after consultation by the Board with the Partners.

Prior to the establishment of the Board the Director's job description, person specification, terms and conditions, salary, pension, responsibilities and powers shall be agreed jointly between the Partners, and appropriate approval obtained under the separate mechanism contained in the Act. Those will reflect and include the responsibilities the Director will have, by agreement amongst the Partners and the Board, to the Partners in relation to matters other than those affecting the integration functions.

The person to be appointed to the post of Director on the establishment of the Board shall be recruited and selected by the Partners working together in light of the legislative requirements to have the Director appointed as a member of staff of one of them and seconded to the Board. The recruitment and selection procedure shall ensure equal representation and participation by the Partners in relation to the involvement of members of the Board and the provision of advice and guidance by the Chief Executives and senior Human Resources professionals of the Partners.

Upon the establishment of the Board, the Board members appointed by the Partners shall ensure the appointment is made in accordance with the outcome of the recruitment process carried out by the Partners. The Partners shall at the same time confirm the appointment of the Director in relation to their own organisations and shall ensure that appropriate powers are delegated to him by the Partners to enable him to meet the requirements of the post.

Any future appointment to the post of Director shall follow the same process, except that the recruitment, selection and appointment process shall be carried out by the Board, after consultation with and in co-operation with the Partners. In so doing, the partners shall ensure the availability of appropriate technical, legal and human resources advice through the arrangements to be put in place for the provision of support services as set out in the Scheme, and through an appointment process involving an equal number of voting members of the Board appointed by the Partners.

If an interim replacement for the Director of the Board is required, in line with a request from the Board to that effect (on the grounds that the Director is absent or otherwise unable to carry out their functions), the Chief Executives of the Partners will initiate a joint selection process, identifying a list of potential replacements; and selection of a suitable candidate will be undertaken against a set of agreed criteria.

The interim replacement will be employed by one of the Partners and will be seconded to the Board on an interim basis.

### **Operational Role of the Director**

In terms of the Act they will report to and advise the Board in relation to its role and powers over the delegated functions, and they will also be accountable to the Chief Executives of the Partners in relation to operational and service delivery matters.

The Director will be a member of each of the council and health board senior management teams and together with the Chief Social Work Officer will have appropriate delegated powers to enable them to discharge their duties and to manage the two services and secure the operational delivery of the integration functions jointly and in an integrated manner.

The Director will be the senior manager in each of the Partners responsible for delivery of the delegated functions in accordance with directions from the Board, and for the delivery of other health and social care functions which have not been delegated to the Board.

## **9.0 Workforce**

The Partners will provide for workforce development in relation to the staff employed in the delivery of the integration functions and will develop an integrated Workforce Development and Support Plan, and an Organisational Development Plan in relation to teams delivering services. The Partners shall ensure the completion of those Plans prior to the constitution of the Board and they shall be put in place at the date of delegation of the integration functions.

## **10.0 Finance**

### **Appointment of a Finance Officer**

The Board will make arrangements for the proper administration of its financial affairs; this will include the appointment of a Finance Officer with this responsibility.

The Finance Officer will be a CCAB-qualified accountant. The Board will have regard to the current CIPFA guidance on the role of the chief financial officer in local government when appointing to this finance role. A job description will be developed with due regard to Scottish Government guidance in terms of financial functions.

The Finance Officer will be employed by the Council or NHS Lothian and seconded to the Board.

In the event that the Finance Officer position is vacant, the Director shall secure, through agreement with both the Council section 95 officer and the NHS Lothian Director of Finance, an appropriate interim dedicated resource to discharge the role.

## **Financial Management of the Board**

The Board will determine its own internal financial governance arrangements; and the Finance Officer will be responsive to the decisions of the Board, and the principles of financial governance set out in this Scheme.

### **Principles of Financial Governance**

The following principles of financial governance shall apply:

- NHS Lothian and the Council recognise that they each have continuing financial governance responsibilities, and have agreed to establish the Board as a “joint operation” as defined by IFRS 11;
- NHS Lothian and the Council will work together in a spirit of openness and transparency;
- NHS Lothian and the Council will ensure their payments to the Board are sufficient to fund the delegated functions in line with the financial elements of the Strategic Plan.
- NHS Lothian and the Council payments to the Board derive from a process that recognises that both organisations have expenditure commitments that cannot be avoided in the short to medium term. The Board, through its Strategic Plan and through the directions issued by it, may, however, be able to influence such commitments over time; and both Partners will work with the Board on service redesign proposals in relation to integration functions.

### **Financial Governance**

The Partners agree to the establishment of a Board budget. The Director will manage the Board budget.

The Partners will apply their established systems of financial governance to the payments they receive from the Board. The NHS Lothian Accountable Officer and the Council section 95 Officer have legally defined responsibilities and accountability for the financial governance of their respective bodies.

The Director in their operational role within NHS Lothian and the Council is responsible for the financial management of any operational budgets (as defined in section 10 of this Scheme) that may be delegated to them by the Partners, and is accountable for this to the NHS Lothian Chief Executive and WLC section 95 officer. The Director will not necessarily be the operational budget holder in relation to all of the functions that the Board directs the Partners to carry out. Additionally the Partners may give the Director responsibility for operational budgets that are unrelated to the Board’s delegated functions.

The Board will develop its own financial regulations. The Finance Officer will periodically review these financial regulations and present any proposed changes to the Board for its approval.



The Council will host the Board Financial Accounts and will be responsible for recording the Board financial transactions through its existing financial systems. This will include the ability to establish reserves.

The Board's Finance Officer will be responsible for preparing the Board's accounts and ensuring compliance with statutory reporting requirements as a body under the relevant legislation.

The Finance Officer will also be responsible for preparing a medium-term financial plan to be incorporated into the Board's Strategic Plan. The Finance Officer will also be responsible for preparing the annual financial statement that the Board must publish under section 39 of the Act, which sets out what the Board intends to spend in implementation of its Strategic Plan.

The Finance Officer will be responsible for producing finance reports to the Board, ensuring that those reports are comprehensive.

The Finance Officer will liaise closely with the Council s95 officer and the NHS Lothian Director of Finance and their teams in order to discharge all aspects of their role section 6 of this scheme has set out the process the Partners will undertake to determine how professional, technical and administrative services will be provided to the Board. The initial focus of this work includes finance support.

### **Payments to the Board (made under section 1(3) (e) of the Act)**

Note – the legislation on Integration uses the term 'payment' to describe the budget contributions that the partners will delegate to the Board. In the interests of clarity, whilst the term 'payment' is used in this document to remain consistent with the legislation, it is not anticipated that cash transfers will take place between Partners and the Board. Rather, the term 'payment' can be taken to mean the budget contributions of the partner organisations that have been agreed as resources delegated to the Board.

Prior to the start of each financial year, the Partners will agree a schedule of payments to the Board (covering their initial calculated payment for the financial year and the dates for transactions).

Any difference between payments into and out from the Board will result in a balancing payment between the Council and NHS Lothian which reflects the effect of the directions of the Board.

### **Initial Payments to the Board**

The Council and NHS Lothian will identify a core baseline operational budget for each function that is delegated to the Board. This will be used as the basis to calculate their respective payments into the Board budget.

The Council and NHS Lothian already have established financial planning processes which take into account the financial settlements they have received, and identified and assumed expenditure pressures, to arrive at opening budgets for the forthcoming financial year. These same processes will be applied to the core baseline operational budgets for the delegated functions in order to arrive at the initial payments to the Board.

### **Resource Transfer**

The “resource transfer” payments from NHS Lothian to the Council will continue to be made after the Board is established, as these payments are effectively core funding of functions that will be delegated by the Council. Taking account of the process above, the resource transfer payment from NHS Lothian to the Council will be reviewed on an annual basis.

### **Hosted Services**

NHS Lothian carries out functions across four local authority areas. Some of the functions that will be delegated to all four Integration Joint Boards in the NHS Lothian boundary are currently provided as part of a single Lothian-wide service, commonly referred to as “hosted services”. As such there is not currently a separately identifiable budget for those services by local authority area.

In order to identify the core baseline budget for each of the hosted services in each local authority area, NHS Lothian will initially determine which of the following methodologies is the most appropriate in representing the distribution of the delivery of those services in each local authority area and their respective populations at a given point in time:

- Local activity and cost data for each service within each local authority area
- Population distribution across the local authority areas
- Patient level activity and cost data
- Historically applied and recognised percentages

The Council and the Board will review the proposals from NHS Lothian as part of a due diligence process, and the core baseline budget will be collectively agreed.

### **Due Diligence**

The Partners will share information on the financial performance over the previous two financial years of the functions and associated services which will be delegated to the Board. This will allow the Partners to undertake appropriate reviews to gain assurance that the services are currently being delivered sustainably within approved resources, and that the anticipated initial payments will be sufficient for the Board to carry out its integration functions.

If any such review indicates that the projected expenditure is likely to exceed the initial payments to the Board, then the relevant Partner will be notified. The relevant Partner will be required to take action to ensure that services can be delivered within the available operational budget

The Partners recognise that of the functions which are to be delegated to the Board, there are some where there is greater potential for the actual expenditure to vary significantly from projections. The Partners will identify what those functions are, and will ensure that information is provided to the Board so that it may build up its working knowledge of the issues, and focus on those functions within their systems for risk management and financial reporting. This will help the Board and the Partners determine how any particular variances (should they arise) should be handled (see section below), as well as how the Board decides to direct the use of the Board budget in the future.

This process of due diligence will be applied in future years, and this will be informed by, amongst other things, the intelligence within the financial performance reports covering all integration functions that the Board will routinely receive.

### **Determining the schedules for the Initial Payments**

The Council section 95 officer and the NHS Lothian Director of Finance are responsible for preparing the schedules for their respective party. The amounts to be paid will be the outcome of the above processes. They will consult with the Director and officers in both Partners as part of this process.

- The Council section 95 officer and the NHS Lothian Director of Finance will each prepare a schedule outlining the detail and total value of the proposed payment from each party, and the underlying methodology and assumptions behind that payment. These draft schedules will identify any amounts included in the payments that are subject to separate legislation or subject to restrictions stipulated by third party funders. The schedules will also contain the detail and total value of set aside resources for hospital services, made under section 1(3) (d) of the Act.
- The Council section 95 officer and the NHS Lothian Director of Finance will refer the draft schedules to the Director so that they may have an opportunity to formally consider it.
- The Council section 95 officer and the NHS Lothian Director of Finance will thereafter present the final draft schedules to the Partners. This schedule must be approved by the Director of Finance of NHS Lothian, the Council section 95 officer and the Director.
- The Council and NHS Lothian must approve their respective payments, in line with their governing policies.

### **Subsequent section 1(3) (e) Payments to the Board**

The calculation of payments in each subsequent financial year will essentially follow the same processes as has been described for the initial payment. This section highlights the key differences from the process of calculating the initial payment.

The starting position will be the payments made to the Board in the previous financial year. The Partners will then review the payments, having due regard to any known factors that could affect core baseline budgets, available funding, their existing commitments, the results of their own financial planning processes, the previous year's budgetary performance for the functions delegated to the Board, the Board's

performance report for the previous year, and the content of the Board's Strategic Plan.

The Partners will also have due regard to the impact of any service re-design activities that have been direct consequence of Board directions.

In all subsequent financial years, the Board will be established and the Director and Finance Officer will have been appointed to their posts. The Partners will engage the Board, Director, and Finance Officer in the process of calculating subsequent payments through:

- Both Partners will provide indicative three year allocations to the Board, subject to annual approval through their respective budget setting processes.
- The Partners will ensure the Director and Finance Officer are actively engaged in their financial planning processes. The Director will be expected to feed into the planning processes with any intelligence that is relevant, e.g. the aims of the Strategic Plan, the effect of previous directions on activity and expenditure, projected changes in activity and expenditure. The Director of Finance of NHS Lothian, the section 95 Officer of the Council and the Board Finance Officer will ensure a consistency of approach and consistent application of processes in considering budget assumptions and proposals.

### **The set-aside of resources for use by the IJB under section 1(3) (d) of the Act**

In addition to the section 1 (3) (e) payments to the Board, NHS Lothian will identify a set aside budget for delegated functions in large hospitals. The set aside budget for delegated hospital services will be based on an apportionment of the relevant NHS Lothian budgets for the delegated hospital services (excluding overheads) based on historic activity within the respective areas served by the Lothian IJBs.

At the time of preparing this consultation draft, the Scottish Government is developing guidance on how the set-aside will work in practice. The Partners will therefore develop this part of the Scheme at a later date.

### **Process to agree payments from the Board to the Partners**

The Board will determine and approve the payments to the Partners which will accompany its directions to them for carrying out functions .

The Finance Officer is responsible for providing the Board with appropriate information and advice, so that it may determine what those payments should be.

Each direction from the Board to the Partners will take the form of a letter from the Director referring to the arrangements for delivery set out in the Strategic Plan and will include information on:

- the delegated function(s) that are to be carried out
- the outcomes to be delivered for those delegated functions
- the amount of and method of determining the payment to be made, in respect of the carrying out of the delegated functions.

Once issued, directions can be amended by a subsequent direction by the Board.

Where amounts paid to the Board are subject to separate legislation or subject to restrictions stipulated by third party funders, the Board must reflect these amounts in full, in determining the level of the payments to be made to the Partners in respect of the carrying out of the relevant function or functions. However, the Board is not precluded from increasing the resource allocated to the relevant services.

### **Financial Reporting to the Board**

Budgetary control and monitoring reports (in such form as the Board may request from time to time) will be provided to the Board as and when it requires. The reports will set out the financial position and outturn forecast against the payments by the Board to the Partners in respect of the carrying out of integration functions and against the amount set aside by NHS Lothian for hospital services. These reports will present the actual and forecast positions of expenditure compared to operational budgets for delegated functions and highlight any financial risks and areas where further action is required to manage budget pressures.

NHS Lothian will provide reports to the Board on the set aside budget. However at the time of preparing this consultation draft, the Scottish Government is developing guidance on how the set-aside will work in practice. The Partners will therefore further develop this part of the Scheme at a later date.

Through the process of reviewing the professional, technical and administrative support to the Board and the development of accounting for the set-aside, the Partners will devise a sustainable model to support financial reporting to the new Board. Until that model is in place, both Partners will provide the required information on operational budgetary performance from their respective finance systems, and this will be co-ordinated and consolidated by the Finance Officer to provide reports to the Board on all the Board's integration functions.

### **Process for addressing variance in the spending of the Board**

#### **Treatment of forecast over- and under-spends against the Operational Budget**

The Board is required to break even each financial year.

Section 15 of this scheme sets out the arrangements for risk management, and financial risk (within the Board and both Partners) will be managed in line with those arrangements.

The Partners will make every effort to avoid variances arising. A key measure in this regard will be the due diligence activities, and the sharing of information with the Board, so that the Board has the best opportunity to allocate resources effectively. The Partners will also ensure that the systems that are already applied to delivering public services within fixed and limited resources will continue.

Where financial monitoring reports indicate that an overspend is forecast on the NHS Lothian or the Council operational budget for delegated functions, it is agreed by the Partners that the relevant party should take immediate and appropriate remedial

action to prevent the overspend. The manager leading this remedial action could be the Director in his or her operational capacity within the affected party.

In the event that such remedial action will not prevent the overspend, then Finance Officer will, together with the relevant Partner, develop a proposed recovery plan to address the forecast overspend. The Finance Officer will then present that recovery plan to the Board as soon as practically possible. The Board has to be satisfied with the recovery plan, and the plan is subject to its approval.

### **Additional Payments by the Partners to the Board**

Where such a recovery plans is projected to be unsuccessful and an overspend occurs at the financial year end, and where there are insufficient reserves held by the Board to meet the overspend, then the Partners may make additional payments to the Board. The Finance Officer and the Partners shall engage in discussion and negotiation about the amounts to be paid by each partner and the date or dates upon which any such payments are to be made.

The Partners recognise that the delivery of integrated functions in accordance with the Strategic Plan depends on their cooperation between each other and with the Board and that all three parties must approach such discussions in good faith, recognising the pressures and constraints on their respective budgets and services. In such discussions the Partners recognise and accept that an overspend is at the risk of the Partner incurring the overspend and the residual amount of overspend after usage of reserves must, in the absence of any other agreement, be met by that Partner.

Recurring overspends will be considered as part of the following year's budget process. If a solution to the overspend cannot be agreed by the Partners, or is not agreed by the Board, then the dispute resolution mechanism in this Scheme may require to be implemented.

### **Underspends**

As part of their normal financial management systems, the Partners conduct in-year reviews of financial performance, and occasionally this may lead to a forecast of an underspend at the year-end on one or more budgets.

In the event that this happens within the operational budgets, any underspend shall be returned to the integration partner delivering that service for the Board, except where the Partners agree that the underspend should be retained by the Board for future use. For example, this could relate to specific management action planned to result in an underspend.

The Board may hold reserves. However the Board will only hold reserves if both Partners and the Board agree that this is appropriate.

### **Treatment of variations against the amounts set aside for use by the Board**

At the time of preparing this consultation draft, the Scottish Government is developing guidance on how the set-aside will work in practice. The Partners will therefore develop this part of the Scheme at a later date.

### **Redetermination of payments (made under section 1(3) (e)) to the Board**

Redeterminations of payments made by the Partners for the carrying out of integration functions would apply under the following circumstances:

- Additional one off funding is provided to a Partner or Partners by the Scottish Government, or some other body, for expenditure in respect of a function delegated to the Board
- The Partners agree that an adjustment to the payment is required to reflect changes in demand and/or activity levels
- Transfer of resources between set aside hospital resources and integrated budget resources delegated to the Board and managed by the Director.
- The Partners need to recover funds to offset a material overspend in their non delegated health and social care budgets subject to availability of funds.

In all cases full justification for the proposed change would be required and both Partners and the Board would be required to agree to the redetermination. The Partners would apply the process used to calculate the payment to the Board (described earlier) to the affected functions.

Any required additional payments will be added to the schedule of payments for the financial year.

### **Redetermination of payments (made under section 1(3) (d)) to the Board**

At the time of preparing this consultation draft, the Scottish Government is developing guidance on how the set-aside will work in practice. The Partners will therefore develop this part of the Scheme at a later date.

### **Use of Capital Assets**

The Board, NHS Lothian and the Council will identify all capital assets which will be used in the delivery of the Strategic Plan.

Changes in use of capital assets will flow from the Strategic Plan and the directions issued by the Board to the Partners. The Strategic Plan process will outline any implications or requirements for capital assets.

The Partners will ensure that their capital asset planning arrangements take due cognisance of the above implications and requirements.

The Director of the Board will consult with the Partners to identify the specific need for improvements/changes to assets owned by each which may be required in connection with the carrying out of integration functions. Where a capital investment need is identified, the Director will present a business case to the Partners to make best use of existing resources and develop capital programmes. Any business case

will set out how the investment will meet the strategic objectives set out in the Strategic Plan and identify the ongoing revenue costs/savings associated with implementation of the proposals.

The Board, the Council and NHS Lothian will work together to ensure assets required in connection with the carrying out of integration functions are used as effectively as possible and in compliance with the relevant legislation relating to use of public assets.

## **Audit and Financial Statements**

### **Internal Audit**

It is the responsibility of the Board to establish adequate and proportionate internal audit arrangements for review of the adequacy of the arrangements for risk management, governance and control of the delegated resources. This will include determining who will provide the internal audit service for the Board.

The head of the internal audit service will report to the Director and the Board on the annual audit plan, delivery of the plan and recommendations and will provide an annual internal audit report including the audit opinion. These matters will be overseen by the Audit and Risk Committee established by the Board.

### **Financial Statements and External Audit**

The legislation requires that the Board is subject to the audit and accounts provisions of a body under section 106 of the Local Government (Scotland) Act 1973 (section 13). This will require audited annual accounts to be prepared with the reporting requirements specified in the relevant legislation and regulations (section 12 of the Local Government in Scotland Act 2003 and regulations under section 105 of the Local Government (Scotland) Act 1973). These will be proportionate to the limited number of transactions of the Board whilst complying with the requirement for transparency and true and fair reporting in the public sector.

The reporting requirements for the annual accounts are set out in legislation and regulations and will be prepared following the CIPFA Local Authority Code of Practice.

The Finance Officer of the Board will supply any information required to support the development of the year-end financial statements and annual report for both Partners. Both Partners will need to disclose their interest in the Board as a joint arrangement under IAS 31 and comply in their annual accounts with IAS 27. Both Partners will report the Board as a related party under IAS 24.

The Board financial statements must be completed to meet the audit and publication timetable specified in the regulations (Regulations under section 105 of the Local Government (Scotland) Act 1973).

The Accounts Commission will appoint the external auditors to the Board.



The financial statements will be signed in line with the governance arrangements for the Board and as specified in the Regulations under section 105 of the Local Government (Scotland) Act 1973.

In all forms of audit, the Partners are expected to comply with related requests and to aid the audit process.

### **11.0 Participation and Engagement**

In developing this Scheme the Partners have consulted with the following persons and organisations:-

*(list to be inserted when finalised)*

That consultation was carried out by the Partners *(method and means of consultation to be inserted, covering how initial consultation happened and then how it was analysed, responded to and taken into account in the final version submitted)*.

Prior to the date of delegation of the integration functions, the Board will develop participation and engagement strategy, a framework to develop and promote participation and engagement of members of the public, representative groups and other organisations in relation to decisions about the carrying out of the integration functions. The Partners will support the Board in the development and implementation of that strategy by *(insert details of what the Partners will do to support the Board. This is different to supporting the strategic plan development and was a new thing in the final version of the regulations)*.

In developing this Scheme the Partners have also taken into account the other such Schemes being developed between the Health Board and other councils in its area, and the effects that all of those Schemes, and this one, may have on the others.

The approved Scheme will be published on the Partners' websites.

### **12.0 Information Sharing and Confidentiality**

It is not anticipated that the Board will be holding personal data. However, the Board will establish a records management policy detailing the approach to be taken to meet the commitment to create, store, protect, manage and archive accurate and reliable records that document the activities of the Board. This policy will accord with and support the partnership's values of being honest, open and accountable, and making best use of resources.

The records management policy will establish the overall security principles that apply to information management and all other information security documentation.

The Partners already adhere to the Pan-Lothian Information Sharing Protocol, and the Board will join them, and other councils in the area of Lothian Health Board, in adhering to that Protocol. The Partners and the Board shall review their use of that protocol on a regular basis and shall agree amongst them any changes or improvements required.

### **13.0 Complaints**

There are separate complaints regimes and procedures which apply to councils and health boards. Complaints made to the Board or to one or both of the Partners in relation to the integration functions shall be allocated by the Director to one of the Partners to address, having regard in particular to the statutory social work services complaints procedure. The Director shall ensure that the Partners cooperate in the investigation and handling of complaints.

### **14.0 Claims Handling, Liability & Indemnity**

The Partners agree that the Partners will manage and settle claims arising from the exercise of integration functions in accordance with common law and statute.

### **15.0 Risk Management**

The Partners already operate an agreed Risk Management Strategy through the past successful operation of the West Lothian Community Health and Care Partnership (CHCP). The Director will be responsible for implementing the Board's risk strategy and profile and developing the risk reporting arrangements for the Board based on the current arrangements in place through the CHCP. Each partner, in conjunction with the Director, will identify and produce a list of the risks proposed to be reported under the risk management strategy. The Partners shall provide the support and expertise of their own risk officers in developing and implementing the Board's strategy and risk management measures and procedures. Risk management resources within each partner body will continue to be available to support risk areas that have been delegated to the Board and the development of the Board risk strategy. The Board will receive regular reports on the risk management strategy. An integrated Health and Social Care Risk Register, based on an agreed methodology for the assessment of risk, will be maintained and reviewed at regular intervals.

These arrangements shall be put in place by the Board, supported by the Partners, prior to the date of delegation of the integration functions.

### **16.0 Localities**

Arrangements for localities will be developed by the Strategic Planning Group as part of the Strategic Plan, within the context of arrangements developed by West Lothian Community Planning Partnership Board.

### **17.0 Business Continuity and Emergency Planning**

The Board will seek assurance from the Partners that appropriate business continuity and emergency planning arrangements are in place.

### **18.0 Dispute Resolution Mechanism**

In the event of a failure by the Partners and the Board to reach agreement between or amongst themselves in relation to any aspect of the Scheme or the integration functions, the Director shall use his best endeavours to reach a resolution through discussion and negotiation with the Partners and the Board.

In the event that the matter remains unresolved, a meeting to seek a resolution shall take place amongst the Chief Executives of the Partners, the Chair of the health board, the Leader of the council, the Director and the Chair and Vice-Chair of the Board.

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## ANNEX 1

## Part 1 Functions delegated by the health board to the Board

## Functions prescribed for the purposes of section 1(6) of the Act

<i>Column A</i>	<i>Column B</i>
<p><b>The National Health Service (Scotland) Act 1978</b></p> <p>All functions of Health Boards conferred by, or by virtue of, the National Health Service (Scotland) Act 1978</p>	<p>Except functions conferred by or by virtue of –</p> <p>section 2(7) (Health Boards);</p> <p>section 9 (local consultative committees);</p> <p>section 17A (NHS contracts);</p> <p>section 17C (personal medical or dental services);</p> <p>section 17J (Health Boards' power to enter into general medical services contracts);</p> <p>section 28A (remuneration for Part II services);</p> <p>section 48 (residential and practice accommodation);</p> <p>section 57(accommodation and services for private patients);</p> <p>section 64(permission for use of facilities in private practice);</p> <p>section 79(purchase of land and moveable property);</p> <p>section 86 (accounts of Health Boards and the Agency);</p> <p>section 88 (payment of allowances and remuneration to members of certain bodies connected with the health services);</p>

	<p>paragraphs 4, 5, 11A and 13 of Schedule 1 (Health Boards);</p> <p>and functions conferred by—</p> <p>The National Health Service (Clinical Negligence and Other Risks Indemnity Scheme) (Scotland) Regulations 2000;</p> <p>The Health Boards (Membership and Procedure) (Scotland) Regulations 2001,</p> <p>The National Health Service (Primary Medical Services Performers Lists) (Scotland) Regulations 2004;</p> <p>The National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2004</p> <p>The National Health Service (General Ophthalmic Services) (Scotland) Regulations 2006;</p> <p>The National Health Service (Discipline Committees) (Scotland) Regulations 2006(i);</p> <p>The National Health Service (Appointment of Consultants) (Scotland) Regulations 2009;</p> <p>The National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009; and</p> <p>The National Health Service (General Dental Services) (Scotland) Regulations 2010</p>
<p><b>Disabled Persons (Services, Consultation and Representation) Act 1986(a)</b></p> <p>Section 7</p>	

(persons discharged from hospital)	
<p><b>Community Care and Health (Scotland) Act 2002(b)</b></p> <p>All functions of Health Boards conferred by, or by virtue of, the Community</p>	
<p><b>Mental Health (Care and Treatment) (Scotland) Act 2003(c)</b></p> <p>All functions of Health Boards conferred by, or by virtue of, the Mental Health (Care and Treatment) (Scotland) Act 2003.</p>	Except functions conferred by section 22 (approved medical practitioners).
<p><b>Education (Additional Support for Learning) (Scotland) Act 2004(d)</b></p> <p>Section 23 (other agencies etc. to help in exercise of functions under this Act)</p>	
<p><b>Public Health etc. (Scotland) Act 2008(e)</b></p> <p>Section 2 (duty of Health Boards to protect public health)</p> <p>Section 7 (joint public health protection plans)</p>	
<p><b>Public Services Reform (Scotland) Act 2010(f)</b></p> <p>All functions of Health Boards conferred by, or by virtue of, the Public Services Reform (Scotland) Act 2010</p>	<p>Except functions conferred by –</p> <p>section 31 (Public functions: duties to provide information on certain expenditure etc.); and</p> <p>section 32 (Public functions: duty to provide information on exercise of functions).</p>
<p><b>Patient Rights (Scotland) Act 2011(g)</b></p> <p>All functions of Health Boards conferred by, or by virtue of, the Patient Rights</p>	

(Scotland) Act 2011.	
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**Functions prescribed for the purposes of section 1(8) of the Act**

<i>Column A</i>	<i>Column B</i>
<p><b>The National Health Service (Scotland) Act 1978(a)</b></p> <p>All functions of Health Boards conferred by, or by virtue of, the National Health Service (Scotland) Act 1978</p>	<p>Except functions conferred by or by virtue of –</p> <p>section 2(7) (Health Boards);</p> <p>section 2CA (functions of Health Boards outside Scotland);</p> <p>section 9 (local consultative committees);</p> <p>section 17A (NHS contracts);</p> <p>section 17C (personal medical or dental services);</p> <p>section 17I (use of accommodation);</p> <p>section 17J (Health Boards' power to enter into general medical services contracts);</p> <p>section 28A (remuneration for Part II services);</p> <p>section 38 (care of mothers and young children);</p> <p>section 38A (breastfeeding);</p> <p>section 39 (medical and dental inspection, supervision and treatment of pupils and young persons);</p> <p>section 48 (residential and practice accommodation);</p> <p>section 55 (hospital accommodation on part payment);</p>

	<p>section 57 (accommodation and services for private patients);</p> <p>section 64 (permission for use of facilities in private practice);</p> <p>section 75A (remission and repayment of charges and payment of travelling expenses);</p> <p>section 75B (reimbursement of the cost of services provided in another EEA state);</p> <p>section 75BA (reimbursement of the cost of services provided in another EEA state where expenditure is incurred on or after 25th October 2013);</p> <p>section 79 (purchase of land and moveable property);</p> <p>section 82 use and administration of certain endowments and other property held by Health Boards);</p> <p>section 83 (power of Health Boards and local health councils to hold property on trust);</p> <p>section 84A (power to raise money, etc., by appeals, collections etc.);</p> <p>section 86 (accounts of Health Boards and the Agency);</p> <p>section 88 (payment of allowances and remuneration to members of certain bodies connected with the health services);</p> <p>section 98 (charges in respect of non residents);</p> <p>and paragraphs 4, 5, 11A and 13 of Schedule 1 to the Act (Health Boards);</p> <p>and functions conferred by—</p>
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	<p>The National Health Service (Charges to Overseas Visitors) (Scotland) Regulations 1989;</p> <p>The Health Boards (Membership and Procedure) (Scotland) Regulations 2001/302;</p> <p>The National Health Service (Clinical Negligence and Other Risks Indemnity Scheme) (Scotland) Regulations 2000;</p> <p>The National Health Service (Primary Medical Services Performers Lists) (Scotland) Regulations 2004;</p> <p>The National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2004;</p> <p>The National Health Service (Discipline Committees) (Scotland) Regulations 2006;</p> <p>The National Health Service (General Ophthalmic Services) (Scotland) Regulations 2006;</p> <p>The National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009;</p> <p>The National Health Service (General Dental Services) (Scotland) Regulations 2010; and</p> <p>The National Health Service (Free Prescription and Charges for Drugs and Appliances) (Scotland) Regulations 2011.</p>
<p><b>Disabled Persons (Services, Consultation and Representation) Act 1986</b></p> <p>Section 7 (persons discharged from hospital)</p>	

<p><b>Community Care and Health (Scotland) Act 2002</b></p> <p>All functions of Health Boards conferred by, or by virtue of, the Community Care and Health (Scotland) Act 2002.</p>	
<p><b>Mental Health (Care and Treatment) (Scotland) Act 2003</b></p> <p>All functions of Health Boards conferred by, or by virtue of, the Mental Health (Care and Treatment) (Scotland) Act 2003.</p>	<p>Except functions conferred by—</p> <ul style="list-style-type: none"> <li>section 22 (approved medical practitioners);</li> <li>section 34 (inquiries under section 33: cooperation);</li> <li>section 38 (duties on hospital managers: examination, notification etc.);</li> <li>section 46 (hospital managers' duties: notification);</li> <li>section 124 (transfer to other hospital);</li> <li>section 228 (request for assessment of needs: duty on local authorities and Health Boards);</li> <li>section 230 (appointment of patient's responsible medical officer);</li> <li>section 260 (provision of information to patient);</li> <li>section 264 (detention in conditions of excessive security: state hospitals);</li> <li>section 267 (orders under sections 264 to 266: recall);</li> <li>section 281 (correspondence of certain persons detained in hospital);</li> </ul> <p>and functions conferred by—</p> <p>The Mental Health (Safety and Security) (Scotland) Regulations 200);</p>

	<p>The Mental Health (Cross border transfer: patients subject to detention requirement or otherwise in hospital) (Scotland) Regulations 2005;</p> <p>The Mental Health (Use of Telephones) (Scotland) Regulations 2005; and</p> <p>The Mental Health (England and Wales Crossborder transfer: patients subject to requirements other than detention) (Scotland) Regulations 2008.</p>
<p><b>Education (Additional Support for Learning) (Scotland) Act 2004</b></p> <p>Section 23 (other agencies etc. to help in exercise of functions under this Act)</p>	
<p><b>Public Services Reform (Scotland) Act 2010</b></p> <p>All functions of Health Boards conferred by, or by virtue of, the Public Services Reform (Scotland) Act 2010</p>	<p>Except functions conferred by— section 31 (public functions: duties to provide information on certain expenditure etc.); and</p> <p>section 32 (public functions: duty to provide information on exercise of functions).</p>
<p><b>Patient Rights (Scotland) Act 2011</b></p> <p>All functions of Health Boards conferred by, or by virtue of, the Patient Rights (Scotland) Act 2011</p>	<p>Except functions conferred by The Patient Rights (Complaints Procedure and Consequential Provisions) (Scotland) Regulations 2012/36.</p>

## Part 2      **Services currently provided by the Health Board which are to be integrated**

- accident and emergency services provided in a hospital
- inpatient hospital services relating to the following branches of medicine—
  - general medicine
  - geriatric medicine
  - rehabilitation medicine
  - respiratory medicine
  - psychiatry of learning disability,
- palliative care services provided in a hospital
- inpatient hospital services provided by general medical practitioners
- services provided in a hospital in relation to an addiction or dependence on any substance
- mental health services provided in a hospital, except secure forensic mental health services
- district nursing services
- services provided outwith a hospital in relation to an addiction or dependence on any substance
- services provided by allied health professionals in an outpatient department, clinic, or outwith a hospital
- the public dental service
- primary medical services provided under a general medical services contract, and arrangements for the provision of services made under section 17C of the National Health Service (Scotland) Act 1978, or an arrangement made in pursuance of section 2C(2) of the National Health Service (Scotland) Act 1978
- general dental services provided under arrangements made in pursuance of section 25 of the National Health (Scotland) Act 1978
- ophthalmic services provided under arrangements made in pursuance of section 17AA or section 26 of the National Health Service (Scotland) Act 1978
- pharmaceutical services and additional pharmaceutical services provided under arrangements made in pursuance of sections 27 and 27A of the National Health Service (Scotland) Act 1978
- services providing primary medical services to patients during the out-of-hours period
- services provided outwith a hospital in relation to geriatric medicine
- palliative care services provided outwith a hospital
- community learning disability services
- mental health services provided outwith a hospital
- continence services provided outwith a hospital
- kidney dialysis services provided outwith a hospital
- services provided by health professionals that aim to promote public health.

### **Local additions**

- Public Dental Service
- Edinburgh Dental Institute
- Psychology and Psychological Therapies

## ANNEX 2

## Part 1 Functions delegated by the council to the Board

<i>Column A Enactment conferring function</i>	<i>Column B Limitation</i>
<p><b>National Assistance Act 1948</b> Section 48 (duty of councils to provide temporary protection for property of persons admitted to hospitals etc.)</p> <p><b>The Disabled Persons (Employment) Act 1958</b> Section 3 (provision of sheltered employment by local authorities)</p> <p><b>The Social Work (Scotland) Act 1968</b> Section 1 (local authorities for the administration of the Act)</p> <p>Section 4 (provisions relating to performance of functions by local authorities)</p> <p>Section 8 (research)</p> <p>Section 10 (financial or other assistance to voluntary organisations etc for social work)</p> <p>Section 12 (general social welfare services of local authorities.)</p> <p>Section 12A (duty of local authorities to assess needs)</p> <p>Section 12AZA (assessments under section 12A - assistance)</p> <p>Section 12AA (assessment of ability to provide care)</p>	<p>So far as it is exercisable in relation to another integration function.</p> <p>So far as it is exercisable in relation to another integration function.</p> <p>So far as it is exercisable in relation to another integration function.</p> <p>So far as it is exercisable in relation to another delegated function.</p> <p>Except in so far as it is exercisable in relation to the provision of housing support services.</p> <p>So far as it is exercisable in relation to another delegated function.</p> <p>So far as it is exercisable in relation to another delegated function.</p>

<p>Section 12AB (duty of local authority to provide information to carer.)</p> <p>Section 13 (power of local authorities to assist persons in need in disposal of produce of their work.)</p> <p>Section 13ZA (provision of services to incapable adults)</p> <p>Section 13A (residential accommodation with nursing)</p> <p>Section 13B (provision of care or aftercare.)</p> <p>Section 14 (home help and laundry facilities)</p> <p>Section 28 (The burial or cremation of the dead)</p> <p>Section 29 (power of local authority to defray expenses of parent, etc., visiting persons or attending funerals)</p> <p>Section 59 (provision of residential and other establishments by local authorities and maximum period for repayment of sums borrowed for such provision)</p>	<p>So far as it is exercisable in relation to another delegated function.</p> <p>So far as it is exercisable in relation to another delegated function.</p> <p>So far as it is exercisable in relation to another delegated function.</p>
<p><b>The Local Government and Planning (Scotland) Act 1982</b></p> <p>Section 24(1) (The provision of gardening assistance for the disabled and the elderly)</p>	
<p><b>Disabled Persons (Services, Consultation and Representation) Act 1986(b)</b></p> <p>Section 2 (rights of authorised representatives of disabled persons)</p>	

<p>Section 3 (assessment by local authorities of needs of disabled persons)</p> <p>Section 7 (persons discharged from hospital)</p> <p>Section 8 (duty of local authority to take into account abilities of carer)</p>	<p>In respect of the assessment of need for any services provided under functions contained in welfare enactments within the meaning of section 16 and which are integration functions.</p> <p>In respect of the assessment of need for any services provided under functions contained in welfare enactments (within the meaning set out in section 16 of that Act) which are integration functions.</p>
<p><b>The Adults with Incapacity (Scotland) Act 2000(c)</b></p> <p>Section 10 (functions of local authorities)</p> <p>Section 12 (investigations)</p> <p>Section 37 (residents whose affairs may be managed)</p> <p>Section 39 (matters which may be managed)</p> <p>Section 41 (duties and functions of managers of authorised establishment)</p> <p>Section 42 (authorisation of named manager to withdraw from resident's account)</p> <p>Section 43 (statement of resident's affairs)</p> <p>Section 44 (resident ceasing to be resident of authorised establishment)</p> <p>Section 45 (appeal, revocation etc)</p>	<p>Only in relation to residents of establishments which are managed under integration functions.</p> <p>Only in relation to residents of establishments which are managed under integration functions.</p> <p>Only in relation to residents of establishments which are managed under integration functions.</p> <p>Only in relation to residents of establishments which are managed under integration functions.</p> <p>Only in relation to residents of establishments which are managed under integration functions.</p> <p>Only in relation to residents of establishments which are managed under integration functions.</p> <p>Only in relation to residents of establishments which are managed under integration functions.</p> <p>Only in relation to residents of establishments which are managed under integration functions.</p> <p>Only in relation to residents of establishments which are managed under integration functions.</p>

	under integration functions.
<p><b>The Housing (Scotland) Act 2001</b></p> <p>Section 92 (assistance to a registered for housing purposes)</p>	Only in so far as it relates to an aid or adaptation
<p><b>The Community Care and Health (Scotland) Act 2002</b></p> <p>Section 5 (local authority arrangements for residential accommodation outwith Scotland)</p> <p>Section 14 (payments by local authorities towards expenditure by NHS bodies on prescribed functions)</p>	
<p><b>The Mental Health (Care and Treatment) (Scotland) Act 2003</b></p> <p>Section 17 (duties of Scottish Ministers, local authorities and others as respects Commission)</p> <p>Section 25 (care and support services etc)</p> <p>Section 26 (services designed to promote well-being and social development)</p> <p>Section 27 (assistance with travel)</p> <p>Section 33 (duty to inquire)</p> <p>Section 34 (inquiries under section 33: Co-operation)</p> <p>Section 228 (request for assessment of needs: duty</p>	<p>Except in so far as it is exercisable in relation to the provision of housing support services.</p> <p>Except in so far as it is exercisable in relation to the provision of housing support services.</p> <p>Except in so far as it is exercisable in relation to the provision of housing support services.</p>



<p>on local authorities and Health Boards) Section 259 (advocacy)</p>	
<p><b>The Housing (Scotland) Act 2006</b></p> <p>Section 71(1)(b) (assistance for housing purposes)</p>	<p>Only in so far as it relates to an aid or adaptation.</p>
<p><b>The Adult Support and Protection (Scotland) Act 2007</b></p> <p>Section 4 (council's duty to make inquiries)</p> <p>Section 5 (co-operation)</p> <p>Section 6 (duty to consider importance of providing advocacy and other services)</p> <p>Section 11 (assessment Orders)</p> <p>Section 14 (removal orders)</p> <p>Section 18 (protection of moved persons property)</p> <p>Section 22 (right to apply for a banning order)</p> <p>Section 40 (urgent cases)</p> <p>Section 42 (adult Protection Committees)</p> <p>Section 43 (membership)</p>	
<p><b>Social Care (Self-directed Support) (Scotland) Act 2013</b></p> <p>Section 3 (support for adult carers)</p> <p>Section 5</p>	<p>Only in relation to assessments carried out under integration functions.</p>

<p>(choice of options: adults)</p> <p>Section 6 (choice of options under section 5: assistances)</p> <p>Section 7 (choice of options: adult carers)</p> <p>Section 9 (provision of information about self-directed support)</p> <p>Section 11 (local authority functions)</p> <p>Section 12 (eligibility for direct payment: review)</p> <p>Section 13 (further choice of options on material change of circumstances)</p> <p>Section 16 (misuse of direct payment: recovery)</p> <p>Section 19 (promotion of options for self-directed support)</p>	<p>Only in relation to a choice under section 5 or 7 of the Social Care (Self-directed Support) (Scotland) Act 2013.</p>
<p><b>PART 2</b> Functions, conferred by virtue of enactments, prescribed for the purposes of section 1(7) of the Public Bodies (Joint Working) (Scotland) Act 2014</p>	
<p><b>The Community Care and Health (Scotland) Act 2002</b></p> <p>Section 4 The functions conferred by Regulation 2 of the Community Care (Additional Payments) (Scotland) Regulations 2002</p>	

**Part 2 Services currently provided by the Local Authority which are to be delegated**

- Social work services for adults and older people
- Services and support for adults with physical disabilities, learning disabilities
- Mental health services
- Drug and alcohol services
- Adult protection and domestic abuse
- Carers support services
- Community care assessment teams
- Support services
- Care home services
- Adult placement services
- Health improvement services
- Housing support services, aids and adaptations
- Day services
- Local area co-ordination
- Respite provision
- Occupational therapy services
- Re-ablement services, equipment and telecare.

**ANNEX 3 – RISK, AUDIT AND GOVERNANCE COMMITTEE****REMIT**

1. To undertake a corporate overview, and to promote awareness and understanding, of the Board's control environment, including financial controls, corporate governance and risk management
2. To develop a culture within the Board of good corporate governance, financial control and assurance
3. To give consideration to internal and external reports which identify issues in relation to the Board's control environment, to scrutinise action plans for compliance, and to ensure that such action plans are implemented
4. To develop an anti-fraud culture within the Board to ensure the highest standards of probity and public accountability
5. To evaluate the arrangements in place for securing the economical, efficient and effective management of the Board's resources
6. To review the External Auditor's annual report and management's response
7. To make recommendations to the Board, to another committee or the Director in relation to any of the matters within its remit

Board Meeting  
14 January 2015

Director of Strategic Planning, Performance Reporting & Information

**SUMMARY PAPER - THE DISESTABLISHMENT OF THE COMMUNITY HEALTH PARTNERSHIPS**

This paper aims to summarise the key points in the full paper.

The relevant paragraph in the full paper is referenced against each point.

<ul style="list-style-type: none"> <li>On 1 April 2015 Sections 4A and 4B of the National Health Service (Scotland) Act 1978 (which make provisions about community health partnerships) will be repealed. Lothian NHS Board will from that date not be required to have CHP sub-committees.</li> </ul>	<p>3.5</p>
<ul style="list-style-type: none"> <li>The earliest date that the four new integration joint boards (IJBs) in Lothian will be established is July 2015. The IJBs do not take responsibility for the integration functions on their first day of establishment. <a href="#">Section 29</a> of the Act requires that each IJB must prepare and approve its first strategic plan before the “integration start day”. The “integration start day” is the day that the health board and the relevant local authority actually delegates functions to the IJB. The health board and the relevant local authority remain directly responsible for the carrying out of all health and social care functions up until the “integration start day”.</li> <li>The Board needs to decide how it wishes to maintain governance oversight of health functions and services that are currently under the umbrella of CHP sub-committees, in the period from 1 April 2015 until the four new IJBs are established. This report recommends that the CHP Sub-Committees continue to meet during this period to serve that purpose.</li> </ul>	<p>3.1-3.3  2.1, 3.15-3.18</p>
<ul style="list-style-type: none"> <li>The report discusses how in the absence of CHP Sub-Committees, the NHS Board will need to revise how it uses its other committees in the future, so it may seek assurance as to <u>how</u> all of the services it provides are being delivered.</li> </ul>	<p>2.2, 3.16, 3.19-3.20</p>
<ul style="list-style-type: none"> <li>This report sets out the Board’s proposed nominees to become voting members on the new IJBs.</li> </ul>	<p>3.24</p>
<ul style="list-style-type: none"> <li>The report briefly summarises the future arrangements for the delegation of services provided to those under 18 years old.</li> </ul>	<p>3.28-3.29</p>

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Corporate Governance Manager  
7 January 2015  
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**THE DISESTABLISHMENT OF THE COMMUNITY HEALTH (AND CARE)  
PARTNERSHIPS**

**1 Purpose of the Report**

- 1.1 The purpose of this report is to explain the impact of the Public Bodies (Joint Working) (Scotland) Act 2014 on the existing community health partnerships, and the governance architecture of Lothian NHS Board (the Board). The report sets out a proposal for a new committee structure for the Board, in the light of CH(C)P sub-committees no longer existing, and Integration Joint Boards being established.
- 1.2 The report also sets out the proposed nominees of the Board for the voting membership of the four new integration joint boards.
- 1.3 The report also sets out the arrangements for the governance of children's services.

This paper is directly relevant to the Board's 2014/15 Corporate Objective (No 11): "Improve integration of care by creating four integration joint boards in line with the Public Bodies (Joint Working) (Scotland) Act 2014."

Any member wishing additional information should contact the Director of Strategic Planning, Performance Reporting & Information in advance of the meeting.

**2 Recommendations**

- 2.1 The Board continues to convene the CHP Sub-Committees and the CHCP Board until the Integration Joint Boards are established (as per Option 1 set out in this paper).
- 2.2 The other committees of the Board start the development work required to ensure that they can provide adequate operational governance oversight to the NHS functions and services that are currently overseen by the CHP Sub-Committees and the CHCP Board.
- 2.3 The Board approves its nominees to the four Integration Joint Boards.

**3 Discussion of Key Issues**

- 3.1 The Board has been working to a previously agreed timetable to issue draft integration schemes for public consultation from December 2014 to the end of February 2015, with the objective of submitting final drafts to the Scottish Government by 1 April 2015. The Scottish Government has published an "integration scheme approval high level timeline" which indicates that from the point it receives the submission, it will take at least 12 weeks for an integration joint board

to be legally constituted. The earliest date that the four new Integration Joint Boards (IJBs) in Lothian will be established is July 2015.

- 3.2 The IJBs do not take responsibility for the integration functions on their first day of establishment. [Section 29](#) of the Act requires that each IJB must prepare and approve its first strategic plan before the “integration start day”. The “integration start day” is the day that the Board and the relevant local authority actually delegates functions to the IJB.
- 3.3 The Board and the relevant local authority remain directly responsible for the carrying out of all health and social care functions up until the “integration start day”.
- 3.4 On the date of its establishment, an IJB is empowered to:
  - Appoint its Chief Officer ([Section 10](#) of the Act)
  - Appoint its Chief Finance Officer ([Section 13](#))
  - Start preparing its first strategic plan. Before it does so, it must establish a Strategic Planning Group ([Section 32](#)). The Act and a Regulation prescribes how the Strategic Planning Group is to be established. The Integration Joint Board is required to seek the views of its Strategic Planning Group on its proposals for what the strategic plan should contain. Thereafter the Integration Joint Board is required to seek the views of its Strategic Planning Group on the first draft of its strategic plan.
- 3.5 On 1 April 2015 Sections 4A and 4B of the National Health Service (Scotland) Act 1978 (which make provisions about community health partnerships) will be repealed. Lothian NHS Board will from that date not be required to have the following sub-committees:
  - Edinburgh CHP Sub-Committee
  - East Lothian CHP Sub-Committee
  - West Lothian CHCP Sub-Committee
  - Midlothian CHP Sub-Committee
- 3.6 The Board and West Lothian Council put in place a West Lothian CHCP Partnership Board, which is a group that is not prescribed by regulation. The Board and the Council can elect to dissolve this at any time. Also within Lothian there are currently four shadow IJBs.
- 3.7 The shadow IJBs are not separate legal entities, and are essentially joint working parties. They do not have the legal status required to be responsible for the governance or decision-making relating to health and social care functions that are carried out by either the Board or any of the councils. They have been focussed on the development of integration schemes and the strategic plans for their respective local authority area.
- 3.8 The Community Health Partnership (Scotland) Regulations 2004 prescribe the membership of the current CHP sub-committees, and this ensured that there was representation from various professions and key stakeholders. The Regulations also require the Board to involve the CHP sub-committee in planning, developing, and making decisions which will significantly affect the operation of services in the area of the CHP. Therefore what distinguishes the CHP sub-committees from other Board committees is that they are specifically constituted to engage and involve a defined range of stakeholders in the planning of services. In terms of the

Public Bodies (Joint Working) (Scotland) Act 2014, this objective will in the future be achieved through the non-voting membership of the IJB the Strategic Planning Group, and the planning considerations and consultation processes the Integration Joint Board is obliged to follow under the Act.

- 3.9 Within NHS Lothian, the CHP Sub-Committees in practice have also provided local governance oversight of the CHP health functions (the CHCP Board does this in West Lothian). This is in addition to the work carried out by the other Lothian NHS Board committees (e.g. Healthcare Governance, Staff Governance, Finance & Resources), which have remits that cover all of NHS Lothian's functions and services.
- 3.10 CHP sub-committees therefore currently discharge two broad roles. The first relates to stakeholder engagement and contribution to planning, and this will be directly taken over by the new Integration Joint Boards. The second broad role is governance oversight of the NHS functions delivered within the CHP.
- 3.11 The new IJBs will not have the ability to employ or contract staff, and they must direct the Board and the Council to carry out functions on their behalf. Consequently the Board will always be responsible in law for the delivery of services, which includes implementing the IJB directions on how delegated functions are to be carried out, as well as carrying all the other functions which have not been delegated to the IJBs.
- 3.12 The Act empowers the IJB to issue directions which regulate the manner as to how a function is to be carried out. It is envisaged that the IJB directions can be fairly detailed, and the strategic plan itself could include specific details of plans for services. The Scottish Government's developing guidance on integration schemes, and their advice, is indicating that the membership of the IJB should have an involvement in the operational governance of integrated service delivery. As the IJBs are responsible for strategic planning of integration functions and the delivery on the national health & wellbeing outcomes, it is for the IJBs to design and satisfy themselves on their own system of governance of their integration functions. It is not for the Board or the local authority to determine what the IJB is to receive for governance purposes.
- 3.13 The Board and the local authorities will continue to be responsible for its own systems of corporate governance, regardless of what the IJBs may also require. The draft integration schemes all contain the following text:
- “In the interests of efficient governance, the relevant committees of NHS Lothian and the Council will continue to discharge their existing remits for assurance and scrutiny of the carrying out of NHS Lothian and the Council functions, regarding matters such as internal control, quality and professional standards, and compliance with the law. The Integration Joint Board will not duplicate the role carried out by those committees other than in exceptional circumstances where the IJB considers that direct engagement by the IJB (or by a committee established by the IJB) is appropriate in order to secure the proper discharge by the IJB of its statutory responsibilities.”*
- 3.14 The integration schemes also contain text which will require the chairs of Board and local authority committees to flag any matters of concern to the IJB to the IJB Chair



and Chief Officer. The integration schemes have been prepared on the basis that the CHP sub-committees and the CHCP Board will no longer exist.

1 April 2015 to the date that the Integration Joint Boards are established (approximately July 2015)

3.15 It is proposed that during this period that the shadow IJBs will continue with the work they have already begun, in terms of undertaking the preliminary planning and engagement work in readiness for the creation of the IJBs. The shadow IJBs cannot discharge the governance oversight.

3.16 Until the functions have been delegated to the IJBs, the governance oversight of NHS functions is entirely a matter for the Board (see 3.2 – 3.3). The Board may:

- 1) Continue with a committee to provide local governance oversight to the NHS functions that had been covered by the CHP. This could mean simply carrying on with the CHP Sub-Committees and CHCP Board.

The Board's former Primary & Community Partnership Committee approved a model set of Standing Orders for CHP Sub-Committees, which was based on the CHP (Scotland) Regulations 2004. The quorum for a CHP Sub-Committee is a third of the whole number of members, and also the Sub-Committee Chair and the General Manager (now Director of Health & Social Care) must be present. There is nothing to stop CHP sub-committees continuing to meet in the interim, provided the quorum requirement can be met. Within West Lothian, the CHCP Board could continue to meet.

- 2) Remove the CHP sub-committees and the CHCP Board altogether, and instead require other Board committees (e.g. Staff Governance Committee, Healthcare Governance Committee) to directly engage with the Directors of Health & Social Care, in the event they require assurance on matters relating to the relevant NHS functions and services. This is essentially the proposal contained within the draft integration schemes, albeit that this is subject to the Integration Joint Boards having an active role in operational governance, and they may introduce further measures.

3.17 In terms of populating committees, a key limiting factor is the number of Board members. However the membership of CHP sub-committees was prescribed by regulation, and they are predominately made up of stakeholders who are not members of the Board. Consequently it should not be such a challenge to attain the quorum of the CHP sub-committees. Given the short time frame until the integration joint boards are established, it may be that only one or two further meetings of each CHP sub-committee needs to be held.

3.18 Option 1 also offers the least disruption during this period of change. The CHP Sub-Committees are well established and the membership is engaged. It is possible that some of these members will become non-voting members of the IJB, or even members of the IJB's strategic planning group.

3.19 Option 2 essentially describes the scenario that the Board will face once Integration Joint Boards are established and the CHP Sub-Committees are dissolved. The Board's other committees will need to absorb the operational oversight role that CHP Sub-Committees currently discharge, as there is not the capacity to create a

direct replacement for them, in addition to populating the 4 new IJBs. The CHP Sub-Committees and the CHCP Partnership Board currently routinely receive local reports which could be presented to other NHS Lothian committees as illustrated below. Alternatively the intelligence within these local reports could be used to inform and enhance existing Lothian-wide reports that these other committees already receive.

NHS Lothian Committee	Reports recently received at CHP Sub-Committees/ CHCP Board
Finance & Resources Committee  <i>(which already receives an extensive finance report which includes the finance position by business unit)</i>	<ul style="list-style-type: none"> <li>• <b>CHP Finance Reports</b></li> </ul>
Healthcare Governance Committee	<ul style="list-style-type: none"> <li>• <b>Updates from the CHP Clinical Director</b></li> <li>• <b>Updates from the CHP Chief Nurse</b></li> <li>• <b>Prison Healthcare Report</b></li> <li>• <b>Adult &amp; Child Protection</b></li> <li>• <b>Keep Well Annual Report</b></li> <li>• <b>CHP-specific health projects/ strategies</b></li> <li>• <b>Updates from Carers' Forum</b></li> <li>• <b>Updates from Public Partnership Forum</b></li> <li>• <b>Delayed Discharges</b></li> </ul>
Staff Governance Committee	<ul style="list-style-type: none"> <li>• <b>CHP Staff Governance Reports</b></li> <li>• <b>Potentially material within the updates from the Clinical Director and Chief Nurse</b></li> </ul>
Acute Hospitals Committee	<ul style="list-style-type: none"> <li>• <b>Delayed Discharges</b></li> <li>• <b>Lothian Unscheduled Care Service report</b></li> </ul>

3.20 The above committees have already started the process of using a statement of assurance needs to determine their agendas and what they commission from management. Whilst the above approach will necessitate a re-design as to how papers are prepared, and what they contain, there are opportunities to remove a degree of duplication that is currently within the Board's system of corporate governance. This may make it easier for the Board to be responsive to the Integration Joint Boards in the future, which will be entitled to determine what information they require to carry out the governance oversight of integration functions.

3.21 With respect to governance oversight of NHS functions in the very short period up until the integration joint boards are established, it is recommended that Option 1 is pursued.

## Arrangements following the establishment of Integration Joint Boards

3.22 The shadow IJBs will stop meeting once the Integration Joint Boards are established. The Integration Joint Boards will attend to their immediate tasks (see paragraph 3.3).

3.23 The Public Bodies (Joint Working) (Integration Joint Boards) (Scotland) Order 2014 sets out the rules on the constitution and functioning of IJBs. The Board and the local authority are required to nominate an equal number of voting members onto the IJB. That number is to be the greater of:

- Three; or
- Such a number as they may agree; or
- Such a number that is specified by the local authority which does not exceed 10% of the number of members of the local authority.

3.24 The Board's nominees to each IJB in Lothian, and the agreed number of voting members, are as follows:

Local authority Area	Number of Health Board Nominees	Names of Nominees
City of Edinburgh	5	George Walker Shulah Allan Kay Blair Dr Richard Williams Alex Joyce
East Lothian	4	Michael Ash Professor John Iredale Graeme Warner Alex Joyce
Midlothian	4	Peter Johnson Dr Morag Bryce Melanie Johnson Alex Joyce
West Lothian	4	Julie McDowell Alison Meiklejohn Dr David Farquharson Alex Joyce

3.25 From the date of establishment of the Integration Joint Board to the "integration start day" (see paragraph 3.2), the Board is still wholly responsible for the governance oversight of NHS functions. Consequently whatever option has been selected above will continue until "integration start day".

3.26 After the "integration start day" (see paragraph 3.2), it will be for the Integration Joint Boards to determine what they require for their governance oversight of their integration functions.

3.27 Building upon what is set out in the integration scheme (see paragraphs 3.10-3.11), the IJB will approve its own standing orders, and will determine its own agenda for IJB meetings, which in turn will determine the information it requires for operational governance purposes. The IJB can review the effectiveness of drawing upon the systems of governance in place within the Board and the local authority, and will undoubtedly ensure that information is presented to it in a manner that facilitates truly integrated governance. The IJB is also empowered by the Order to establish its own committees for whatever purpose it sees fit.

Children’s Services

3.28 The Public Bodies (Joint Working) (Prescribed Health Board Functions) (Scotland) Regulations (2014) set out which functions may and may not be delegated by health boards to IJBs. Within the functions that may be delegated, there is a prescribed range of clinical functions that must be delegated. The functions that must be delegated only relate to the extent that they are provided to persons of at least 18 years of age. Consequently the Board has a choice as to whether or not to delegate services provided for those who are under 18 years of age.

3.29 With regard to each integration joint board, the decision on delegation of functions relating to those under 18 years of age is as follows:

Local authority Area	Are the functions relating to those under 18 years of age delegated to the IJB?	Supplementary remarks
City of Edinburgh	NO	There will be a separate board of governance established to oversee children’s services in Edinburgh. Shulah Allan and Kay Blair will be members of this.
East Lothian	Not at first, but the intention is to delegate these functions in a Phase 2 integration scheme at a later date.	
Midlothian	Not at first, but the intention is to delegate these functions in a Phase 2 integration scheme at a later date.	
West Lothian	NO	The West Lothian Director of Health & Social Care will be responsible for the operational management of children’s services in West Lothian.

3.30 There are exceptions to the above. There are a range of functions which must be delegated which the NHS Board regard to be provided holistically to all ages, and that it makes no sense to disaggregate them. Consequently the following functions (for under 18s) will also be delegated to all four IJBs.

- a) Primary Medical Services and General Medical Services (including GP Pharmaceutical services)
- b) General Dental Services, Public Dental Services and the Edinburgh Dental Institute
- c) General Ophthalmic Services
- d) General Pharmaceutical Services
- e) Out of Hours Primary Medical Services
- f) Learning Disabilities

#### **4 Key Risks**

- 4.1 There is a risk that the Board's corporate governance arrangements are too complex and inefficient. Consequently the Board may not govern its functions effectively, which in turn could lead to poor organisational performance or emerging risks not being detected and addressed.

#### **5 Risk Register**

- 5.1 The Board's risk management system will be updated as required by the relevant managers, in the light of the option the Board elects to take.

#### **6 Impact on Inequality, Including Health Inequalities**

- 6.1 An impact assessment has not been carried out to date. An assessment will be made as to whether this is required following the outcome of the Board's initial discussion on this subject.

#### **7 Involving People**

- 7.1 The Chairs of the shadow IJB Boards, the CH(C)P Sub-Committees, the Joint Directors of Health & Social care, the members of the Corporate Management Team, and the Employee Director have been given the opportunity to comment on this paper.

#### **8 Resource Implications**

- 8.1 Taking Option 1 in the short term should not have any significant resource implications. Regardless of what is done before the integration joint boards are established, implementing Option 2 will require an investment of time to re-design current reporting arrangements.

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